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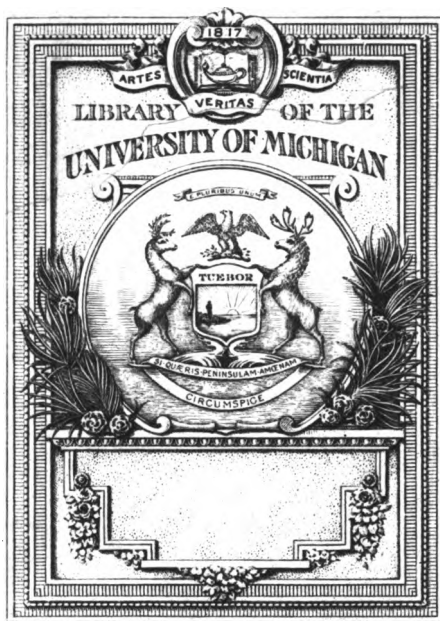
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DOCUMENTS
ACCOMPANYING THE JOURNAL
OF THE
SENATE & HOUSE OF REPRESENTATIVES
OF THE
STATE OF MICHIGAN,
AT THE REGULAR SESSION OF 1853:



LANSING:
GEO. W. PECK, PRINTER TO THE STATE.

1853.

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[No. 1.]

COMMUNICATION from the Auditor General relative to settlement with the Agent of State Prison.

AUDITOR GENERAL'S OFFICE, }
Lansing, Jan. 5, 1852.

To the Legislature of the State of Michigan:

As required by section 39, chapter 172, I have examined the accounts of the Agent of the State Prison, and find them correct, as appears from the books of this office. The report of the Agent is herewith transmitted.

JOHN SWEGLES,
Auditor General.

W. C. Pease, Agent State Prison, in account with State of Michigan.
1852. DR.

Nov. 30th.	To cash on hand per last annual report,.....	\$179 83
	“ Received in Dec. 1851,	\$811 65
	“ “ Jan. 1852,	345 13
	“ “ Feb. “	1,739 72
	“ “ March “	1,698 07
	“ “ April “	1,327 26
	“ “ May “	1,275 24
	“ “ June “	2,888 57
	“ “ July “	1,263 48
	“ “ Aug. “	1,420 81
	“ “ Sept. “	2,013 26

To cash received	Oct. 1852,	2,525 05	
" "	Nov. "	6,811 11	
		<hr/>	24,119 35
			<u>24,317 18</u>

CR.

By cash expended in Dec. 1851,	\$653 18	
" "	Jan. 1852,	607 94
" "	Feb. "	1,310 34
" "	March "	2,148 03
" "	April "	1,253 11
" "	May "	1,127 43
" "	June "	2,744 38
" "	July "	1,261 44
" "	Aug. "	1,133 37
" "	Sept. "	2,734 94
" "	Oct. "	1,893 00
" "	Nov. "	7,372 68
		<hr/>
		24,239 84
Cash on hand Nov. 30, 1852,		\$77 34

Inventory of the goods, materials, and moveable property belonging to the State, and on hand November 30, 1852.

In the Office—1 stove and pipe, 1 iron safe, 1 writing desk, 3 tables, 3 book and paper cases, 6 office chairs, Revised Statutes of 1837 and 1846, and the session laws and legislative documents, Inspectors and office records, 2 candlesticks, floor oil cloth, calender, 1 clock, and 3 sets calico window curtains.

In the Library Room—1 stove and pipe, 1 table, library case with drawers, about 600 volumes of books, and 2 chairs.

In the Guard's Room and Armory—13 muskets, 8 carbines, 2 revolving and 4 common pistols, 4 powder flasks, 1 powder canister, a small quantity of ammunition, 1 stove and pipe, 1 table, 1 clock, and 1 lamp.

In the Prison Building—4 large stoves and pipe, tables, benches, knives and forks, spoons, tin plates and cups, bunks, bed and bedding, night buckets, clothing sufficient to accommodate 212 convicts, 2 water barrels, 1 large tin oil can, 10 lamps.

In the Hospital Department—1 case of surgical instruments, 1 dispensatory, and a small supply of medicine and hospital stores.

In the Chapel—Chaplain's desk and 5 others for officers and guards, benches for seating 250 persons, and one stove and pipe.

In the Barber and Tailor Shop—1 stove and pipe, 1 table, razor case and about 15 razors, 1 looking glass, 1 comb and brush, 1 wash stand and basin, and a few old towels, one tailors bench, and 3 sets tailoring tools.

In the State Shop—1 stove and pipe, 1 grind stone, 3 work benches, 2 bench screws, 2 broad axes, 1 hand axe, 1 adz, 1 tool chest, and part of 3 sets joiner tools, 500 feet of lumber.

In the Store Room and Yard—4 shovels, 2 pecks, 3 iron bars, 3 buck saws, 1 saw buck, 6 hoes, 4 old wheelbarrows, 1 hand cart, 4 narrow axes, part of set quarrying and stone cutting tools, 3 pairs hand cuffs, 8 pairs shackles, and 5 balls and chains, 2 sets tackle blocks, and fall and gang ropes for one, 1 gin and geering, 20 perch rough stone, 20 cords wood, 7 M shingles, 1 log chain, 1 beetle and 2 wedges, 2 iron teeth rakes, 6 hods and 8 mortar boards, platform scales.

In the Kitchen—5 cauldron kettles, 1 cistern pump and pipe, 2 sinks and 1 wash basin, 2 tables, 1 kneading trough, 1 large copper wire seive, 4 tubs, 2 baskets and 2 do for bread, 1 meal and flour chest, 1 cupboard, 4 tin coffee cans, 11 patent pails, 16 baking pans.

In the Wash House—2 wash tubs, 1 clothes chest, 3 cauldron kettles, 2 barrels.

In the Agent's House—1 cook stove, furniture and pipe, and 5 parlor and chamber stoves, with pipe to each, 1 cherry dining and 2 small tables, and 1 kitchen table, 1 sink, 2 white wood dressers, 2 do wash stands, 1 do bureau, and 1 cherry book case, (not quite finished,) 1 common bedstead, 1 wardrobe, 1 cupboard, 1 small bell, 1 oil cloth for principal hall, carpets for front and back parlors, and stair carpet and cover-ing and rods for same.

In the Old House—1 pair large fire dogs, and 1 old cook stove and part set furniture, and 1 old cupboard.

Outside Prison Yards—1 horse, 1 buggy, 1 lumber waggon, and double harness, 1 horse cart and harness, 1 pitch fork, scythe and snath, 4 saddles, and about one ton hay.

STATE OF MICHIGAN, }
County of Jackson, } ss.

William C. Pease, Agent of the Michigan State Prison, and Giles Bloomfield, Clerk thereof, being duly sworn, depose and say that the foregoing account current and inventory are in every respect true, according to their understanding, knowledge and belief.

WM. C. PEASE,
G. BLOOMFIELD.

Subscribed and sworn to before me, December 13th, 1852.

H. H. BINGHAM,
Notary Public.

STATE PRISON OFFICE, }
Jackson, Dec. 13, 1852. }

HON. JOHN SWEGLES, *Auditor General*:

DEAR SIR—The foregoing comprises an account of all moneys received and disbursed by me, during the year ending Nov. 30th 1852, for and on account of the Prison, and an inventory of all goods, materials, and moveable property belonging to the State, and now on hand. All which I respectfully submit.

WM. C. PEASE, *Agent.*

[No. 2.]

MEMORIAL of the Board of Regents of the University of Michigan, asking payment to the University Fund of certain Interest Moneys.

To the Honorable the Senate and House of Representatives of the State of Michigan:

The undersigned, President and Regents of the University of Michigan, respectfully request the attention of your Honorable body to the effect of "Act No. 20, approved February 28, 1844," and also to "Act No. 83, approved March 11, 1844," on the University Interest Fund, as explained in the following report of the finance committee of the Board.

The favorable action of the Legislature, as contemplated in the report, and earnestly solicited by the undersigned, is important to the prosperity of the University at this time; as, aside from the bonds, or "Michigan University State stock," the Institution is burdened with a debt of \$10,000, in the shape of a consolidated warrant, the history of which is fully set forth in the recent report of the Regents to the Superintendent of Public Instruction.

It is designed to hold the moneys derived through the instrumentality of the Legislature, from the per centage alluded to in the report, as a special fund, to which will be added such moneys as can be spared from the annual income of the University, to pay the principal of the consolidated warrant above named.

HENRY P. TAPPAN,
President.

M. A. PATTERSON, 1st Dist. ELISHA ELY, 5th Dist.
EDW'D L. MOORE, 2d " CHA'S H. PALMER, 6th Dist.
ELON FARNSWORTH, 3d " ANDREW PARSONS, 7th "
JAMES KINGSLEY, 4th " WILLIAM UPJOHN, 8th "
Ann Arbor, Dec. 24, 1852.

REPORT of Finance Committee of Board of Regents of University of Michigan, referred to in the preceding Memorial.

It is the duty of the committee to call the attention of the Board to an act of the Legislature, approved February 28, 1844, entitled "an act authorizing the receipt of obligations of this State in payment of University lands;" and also to act No. 83, approved March 11, 1844, entitled "an act for the relief of the University of Michigan."

Under the provisions of these acts, treasury notes and warrants, to the amount of \$100,000, were received from purchasers of University lands, except \$8,095, paid in real estate, and perhaps \$7,000 in interest warrants paid directly to the State by the Regents. On this sum the University has received but 6 per cent, in place of the ordinary legal interest of 7 per cent. In consideration of the receipt of \$100,000, principally in treasury notes and warrants, the State, in the language of the first mentioned act, "relieved the University from the payment of interest on an equal amount of bonds loaned from the State." But the University was "relieved" by a loss of one per cent, (less the expense of paying interest on the bonds,) on what should have been regarded as University capital, until the date of the maturity of the bonds; for the bonds called for 6 per cent only, and by the previous law of the State, the University was entitled to 7 per cent, on all loans of University capital. It is evident that the State appropriated \$100,000 of the principal of the University fund, to provide for the payment of interest merely, on bonds not due until the 6th of April, 1858. To this there would be no objection, had provision been made for payment to the University of the additional one per cent, which the University would have received had the lands been sold for cash, and the moneys loaned to individuals or estates, or if left due from purchasers.

It may be said that the action of the Legislature was designed for the benefit of the University, by authorizing the receipt of the somewhat depreciated State obligations, "in payment of University lands,"

which increased the immediate pecuniary resources of the Institution; that the beneficial effect of the laws in relieving the University, was equivalent to the one per cent now claimed, as the State was under no obligation to receive its depreciated paper on the same terms as cash, and that 6 per cent was sufficient interest on the former, when received on University lands, and loaned to the State, notwithstanding that the latter, under pre-existing law, called for 7 per cent, when loaned to counties, &c.

We admit that the acts in question hastened the sale of University lands, and increased the available capital of the Institution, whereby it was enabled to pay \$600 annual interest, and also to sustain its literary department with a degree of benefit to the public, proportioned perhaps to its means. But it should be remembered that the State at large was benefited also by the law, independent of the educational advantages derived from the Institution.

The lands sold for the "State obligations had been selected at an early period with great care, and were among the best owned by the University, and the facilities afforded to purchasers, led, not only to their rapid sale, but to their early settlement and cultivation, which increased the taxable property of the State. It is probable that several hundred persons found homes on the lands sold under the provisions of the act aforesaid, as they lay contiguous to the most prosperous settlements in the State, and the tax-payers on these lands have lightened the burden of our other tax-paying citizens in a far higher degree than the mere amount of per centage claimed as equitably due to the University. In this view, the mere *benefits* of the legislation, when regarded as a matter of debt and credit between the State and the University, may be considered as balanced. On the other hand, the treasury notes and warrants composed part of the domestic indebtedness of the State; and as far as the public interest was concerned, were equivalent to cash paid into the State Treasury, and should have been so regarded in the fiscal transaction of the State with the University.

From the foregoing remarks, it will be understood that the practice at the State Treasury is, to credit the University with interest only, on the amount of principal, over and above the \$1,000,000 00 of principal paid to the State by the purchasers of University lands, &c.,

and this practice is justified by the opinion of the Attorney General, received in reply to a communication addressed to him by the chairman of the finance committee in May last, whereby it appears that the State officers have construed the act correctly, and that the error is in the law, and consequent loss to the University can only be remedied by the Legislature.

Your committee therefore ask the board to solicit the Legislature to pass an act to provide for payment to the University of one per cent. on \$100,000 00 of Treasury notes, warrants, and real estate, received by the State under the acts above mentioned, deducting the expense of paying interest on the University lands, and calculating the per centage, as near as may be, from the date of the receipt of said notes, warrants, &c., until January 1, 1853, and semi-annually thereafter until the maturity of the bonds in 1858, or until such period as the State shall have paid the principal of said bonds.

M. A. PATTERSON,

Ch'n. Finance Com.

[No. 3]

PETITION of Samuel A. McCookry, Bishop of the Protestant Episcopal Church in the Diocese of Michigan, relative to a division of the School Funds of this State.

To the Honorable the Senate and House of Representatives of the State of Michigan:

The undersigned is the Bishop of the Protestant Episcopal Church in the Diocese of Michigan: He has learned from the public newspapers, and from petitions about to be presented to your Honorable bodies, that an application is to be made for such a division of the school fund of this State, so that "in all cases the parent be left free to choose the teacher to whom he will entrust the education of his child." Such an application (if granted) he considers as giving the right not only to parents, but to every religious body, to select teachers who will teach the peculiarities of the religious views or opinions they may hold. It will place the whole school fund of this State in the hands of religious bodies or sects, and entrust to them the education of the children of the State; for the right, if given to one, will be claimed by each and by all. Whatever opinion the undersigned may entertain in reference to the system and effects of common school education, he begs leave to say, that he has no wish or desire to interfere with, or in any way alter, or abridge the system which has been the pride of this State, and which has furnished to so many thousands of her children the means of obtaining a high secular education; nor does he wish that the fund so generously granted to the people of this State, and so carefully guarded by her Legislatures, and so highly prized by her citizens, should be used for the promotion of sectarian strife and bitterness.

It is one of the distinguishing features of our free institutions, and which lies at the foundation of the happiness and freedom of the people, that neither religious tests, nor religious preferences form any

part of our legislation. All religious bodies are placed on precisely the same footing, and whatever may be the exclusive claims of each and of all, they can only be settled by an appeal to a higher and different authority than State Legislatures. But if your honorable bodies see fit to overturn and destroy that system which has been heretofore so carefully guarded, and which has introduced into every occupation and profession, some of the most distinguished men of the State, and which has brought to the door of the poor man the means of educating his children; and if the Priests and Clergymen of every religious body are to take the place of the common school teacher, and the State is to assume the duty, through them, of extending and building up religious differences, and of fomenting strife and contention, then the undersigned (most reluctantly) would claim to have a share in this work. If then such a change is to be made in our common school law, so as to allow parents to choose teachers for their children, the undersigned would respectfully ask for his proportion of the common school fund, so that the people entrusted to his spiritual oversight may employ such teachers as will fully carry out their religious preferences. He would freely and frankly state to your Honorable bodies that the amount thus granted, shall be carefully used in teaching the principles and doctrines of the Protestant Episcopal Church, and that the services of as many clergymen and laymen of the Church shall be secured and used, so that no other principles and doctrines shall find any place in the different schools.

SAMUEL A. MCCOSKRY,

Bishop of the Protestant Episcopal Church in the Diocese of Mich.
Detroit, Jan. 19, 1853.

[No. 4.]

MEMORIAL of the President of the University of Michigan.

To the Honorable the Senate and House of Representatives of the State of Michigan :—

The undersigned would respectfully present to your consideration the following memorial :

The undersigned has been elected by the Regents, according to the provisions of the Constitution, the chief executive officer of the University of Michigan. About the middle of October last he entered upon his duties. It immediately devolved upon him to examine and revise the course of studies. He found that a very respectable course had been pursued, and that for a number of consecutive years from twelve to twenty young men had been graduated according to the usage of the colleges of this country as **BACHELORS OF ARTS**.

He found, however, that the course was too limited to answer the scope of a State University, and to meet the educational wants of the community in general. He, therefore, with the co-operation of the Faculty, and under the sanction of the Regents, proceeded to organize a distinct but parallel course of scientific studies, embracing four years ; the students completing the entire course, to be graduated as **BACHELORS OF SCIENCE**.

In addition to this an opportunity is afforded to the students to select at pleasure partial courses from either one, or from both the regular courses jointly : students in the partial courses to receive when they leave the institution, certificates of their proficiency.

In the scientific course the modern languages are pursued, as in the classical course, and an additional amount of mathematics and other scientific studies substituted for the Latin and Greek languages.

In the scientific course are embraced, also, the branches belonging to civil engineering, and agricultural science. It was conceived that the University of Michigan could not hold its place among the best institutions of our country, unless these branches, in common with them, were introduced into its system of instruction. Besides Michigan is and forever must be a community of farmers, and the true design of a State University must of necessity be to afford the means of education to this, the leading class, so that the proprietors of the soil may be educated men, prepared alike to carry to the utmost perfection the noblest of all the industrial arts, and to sustain the high trusts and to discharge the important duties which devolve upon them as the legislators and civil officers of the land.

The exalted position of our country is, that instead of having a small and aristocratic class as the owners of the soil, while the mass of the people becomes a crushed and degraded peasantry, we have the owners of the soil and the cultivators of the soil in one class, and that the most powerful of all classes. This class, by the operation of institutions properly organized, is destined to become the best educated and most intelligent, as well as the most wealthy and influential class.

The University of Michigan belongs to this class, no less than the primary schools. It is designed to be the University of the people. If it has not hitherto realized this design, it has not arisen from any want of capability in this institution to realize it. In its nature it is capable of affording education to all classes of the community in all those branches which have always been comprised in academical education, and the branches applicable to all the industrial arts, upward to the loftiest pursuits of Literature, Science and the Arts.

The undersigned, therefore, could not in the faithful discharge of his duty, in organizing the scientific course, leave out of his consideration agricultural science, and whatever pertains thereto. The institution cannot be a respectable scientific institution, no more than it can be adapted to the wants of the community, without this. The most beautiful and interesting illustrations of chemical science, and of animal and vegetable physiology, stand directly connected with the pursuits of the farmer.

The undersigned has found also, ready to his hand many of the

essential preparations for an agricultural course, consisting of suitable buildings, a chemical laboratory, large collections in natural history, and one of the first collections of minerals in our country. There are also some valuable works relating to agriculture and horticulture in the library, donations also have already been received, and more are in expectation, for increasing the agricultural department of the library.

The undersigned, therefore, feels himself imperatively called upon in the proper execution of his duties, to develop fully the agricultural course in the University. He proposes, by no means, to dictate to the legislature the location of the Agricultural School ordained by the Constitution. He has no local interests himself, nor will he enter into any of the conflicts of such interests. He places himself simply upon the ground of what is required of him as the President of the University. Whatever disposition may be made of the question respecting the Agricultural School, agricultural science must be taught and fully taught in the University of Michigan.

The undersigned would also state in connection with this subject, that the liberality of the citizens of Detroit having provided a fund for the creation of an observatory at the University, it has become necessary for him to visit Europe during the present year, for the purpose of completing that design, and that the Regents have by a resolution requested him at the same time to examine the Primary Schools, the Normal Schools, the Gymnasie, the Agricultural Schools and the Universities of Prussia, and to report to them upon his return the result of his observations. The trip over the Atlantic, while it will be undertaken without imposing any expense upon the institution, will enable the undersigned to bring to the development of the agricultural department, as well as to the other departments, the fruits of observation upon the ripened experiments of other and older nations.

It must be obvious to the legislature that the erection of an Observatory must increase the necessity of a Professor of Astronomy. And as the Observatory is intended to be one of the best, it should have one of the most eminent men that can be found. The addition, too, of the scientific and agricultural course, and the proper development of the University in all the courses established, must lead to

an increase of expenses. Besides, the library is limited and deficient, and far from meeting the wants of the Professors and students. It requires a very considerable addition immediately, as well as a provision for its annual and steady increase. An ample library, well supplied museums, an Observatory and philosophical apparatus, courses of study enabling the student to study what he pleases, and to any extent he pleases, and a sufficient number of competent Professors, cannot fail to make a great University, one that shall meet the wants of the people of Michigan, prove the glory of our State, and be an object of admiration to all around us.

Then, in estimating the necessities of our University, we must keep prominently before us that it is a free University. Hence students from the other States, and from other countries, have as free access to it as the students from our own State. On the one hand we must enlarge and elevate its courses of instruction in order to attract our own youth and keep them from the older colleges of the East; and on the other hand, just as we multiply our attractions as a literary institution, do we offer ourselves to a rush of students from abroad. But whether we keep our own youth at home, or attract students from abroad, the number of students, however it may add to our glory by testifying to our usefulness, will, instead of increasing our income, only increase our expenses. Other institutions charging fees of tuition, will grow rich by an increase of students, while we shall grow poor, unless we can obtain funds in other ways.

It is a high honor to the State of Michigan, alone of all the States, to establish a State University, affording education without money and without price to every one who wears the form of man, whatever be his nation or his clime. But then she must count the cost of it. The almoners of her bounty must be furnished with the means of carrying out her intentions.

There is another fact also, which must be held up prominently to view, and that is, the University of Michigan, as far as developed, has been endowed by a grant from the General Government. The University thus far has not cost the people of Michigan one cent. Under the grant of the General Government the University has been organized by the wisdom of Michigan, but her money has not been

expended for it. The University with its buildings, its museums, its library, its laboratory, its endowment, just as it now exists, and I may add too, with the noble Observatory about to be erected by private munificence, is a gift to the State and people of Michigan—a precious trust committed to them for the present and for coming generations. They have accepted the gift—the precious trust—and now they are called upon to take care of it, to cherish it, and to bring out its grand results. The grant of the General Government laid the broad foundation, but the magnificent superstructure remains to be erected. The grant of the General Government has carried it to a certain point, but it is not adequate to carry it any farther.

It will be seen from the report of the Auditor General, that the income of the University for the present fiscal year, is only \$11,644 69. With this the University has to meet all its expenditures, make all its improvements, and pay the interest on a floating debt of \$12,000. All its income is exhausted and more than exhausted in meeting its present expenses. It is utterly impossible for it to advance without an addition to its income.

The undersigned respectfully and earnestly begs the legislature in their wisdom and liberality, to take into consideration the condition of an institution which entirely belongs to them. He does not presume to dictate the ways and means of relief; he only undertakes as the chief executive officer of the institution, to represent its condition, its aim, and its wants. In doing this he may be permitted to say that the aid required is both immediate and prospective. Immediate aid can only be given in the shape of money to pay off the floating debt, and by an annual grant sufficient to enable it to carry out its design, discharge its functions, and accomplish its proper destiny. Prospective aid can be given in the shape of land, which will in time come into the market and meet its increasing wants with its progressive development and usefulness.

Whether the legislature will now grant aid in both respects, or leave the grant of land to some other occasion, it is for them in their wisdom to decide. But the undersigned cannot but hope that they will entertain the plea for immediate aid. Let the University only be placed upon a proper basis, and be enabled to become what its name indicates, and then he will feel that he has not left in vain his

old and cherished associations to throw himself as a stranger upon their generosity, and then he will feel willing, if it so pleases them, to resign his trust to other and abler hands.

HENRY P. TAPPAN,

President of the University of Michigan.

January 24, 1853.

[No. 5.]

REPORT of the Committee on Militia, on the petition of Frederick Hart and two hundred and eighty-two others.

The committee to whom was referred the petition of Frederick Hart and 282 others, requesting that Chapter 14 of "An act to provide for organizing an active militia, and for other purposes," approved May 18, 1846, be revived and re-enacted, so as to require the annual tax of twenty-five cents therein mentioned, for the support of the volunteer militia of this State, from all persons liable to the performance of military duty, and from no others, beg leave respectfully to report, that they have duly considered the subject, and can conceive of no immediate nor, indeed, prospective necessity for legislative interference in their behalf. Due reflection has impressed the committee with the idea that other means may be adopted, (prolific of less folly,) to subserve the purposes of the petitioners, and reflective of more credit to the Commonwealth.

The spirit of the age in which we live suggests advancement in this arm of our State policy, as well as in its other branches. If the same results may be secured, as the one contemplated by the petitioners, by a different avenue, wisdom at least would advise its adoption.

From the period when Michigan forsook her dependence upon the general government as a Territory, and leaped (perhaps prematurely) into a State sovereignty, unwearied efforts have characterized our Executives and Legislatures in their attempts to organize an active militia. Indeed, each trial has been but the signal for another failure, until at length the great truth has fairly disclosed itself, that the people neither solicit nor expect any legislative interposition. Did necessity plead for the reviving of such enactments, the committee would give the proper heed to it; but inasmuch as no such plea is entered, no recommendation seems to be called for.

Fortunately, our country is being sown broadcast with intelligent

and competent officers, issuing from our National Military Academy, into whose hands may be safely reposed our interests and our honor. With such as these always at hand, ready to lead a volunteer soldiery, no foreign foe will dare to press a foot upon our soil.

Profiting by the experience of the past, the committee cannot but yield to the impression that our country is better defended by a proper training of the *mind* than by an unnecessary subjection of the *body* to military discipline. While there is no fortress half so impregnable as the school house, there is at the same time no artillery that speaks half as loud as the school master. Each educated mind is equal to a score of bayonets, each University is of itself an arsenal. At the same time that education supplies all its recipients with the elements of usefulness and success, it affords its votaries with almost every qualification for the camp and the field.

Your committee are not opposed to the entire system to that extent, that they would blot it from our statutes and our constitution; so far from it, they would earnestly urge upon the Legislature the necessity of enforcing the law, which makes it a part of the duty of certain township officers to enumerate those liable to military duty, and to so return them, that the facts may reach the Adjutant General, affording to that officer the basis upon which he may take steps towards the procurement of our quota of arms, agreeable to an act of Congress. And here the committee would assume the responsibility of traveling out of their legitimate province, to bestow upon the present incumbent of the Adjutant Generalcy, their approbation of the manner in which he has discharged the duties of that office, when they take into consideration the want of co-operation and even sympathy with which he has had to contend.

The committee taking this view of the subject, without any recommendation in regard to the prayer of the petitioners, ask to be discharged from its further consideration.

F. W. CURTENIUS,

Chairman.

[FROM SENATOR CLARKE.]

[No. 6.]

REPORT of Committee on Mines and Minerals.

The committee on Mines and Minerals, to whom was referred House bill No. 29, report through their chairman, that in presenting their view of the subjects under consideration, they do not propose to discuss the details, or occupy time in pleading the necessity of such a law as shall develop the mineral wealth that lies hidden amid the rocks and mountains of the Northern Peninsula.

Cut off, geographically, from a ready communication with the more settled portion of the State, with a season which, for six or seven months in every year, isolates them from a world whose comforts and enjoyments endear and sweeten life, her hardy and toiling population knock at your door, not begging justice, but demanding it; not humbly suing for succor, but respectfully, though firmly protesting against that narrow spirit of legislation which has hitherto trammelled their enterprise, and left them only to the cold, though cheering rays of that splendid Borealis that lightens up her northern border.

No one will deny that it is the duty as well as the interest of the State to foster the spirit of improvement and the development of her productive resources, and this is all that is asked or sought by a community whose task is to struggle and overcome the adversities of Nature. Hitherto this fostering care has been not only withheld, but they have been borne down by limitations and burthens of law as though former Legislatures had deemed it a privilege to allow labor and capital to enter our northern territory. Instead of fostering they have repulsed labor; instead of inviting they have spurned capital, until time, which lifts the veil of mystery, has shown to Michigan and to the world, the wealth imbedded in her mines and forests.

The first recitals in the history of the developments of the mineral wealth of Lake Superior were received with a spirit of incredulity

that subjected those who first penetrated her rock-bound ribs, to the character of being men whose adventures were chimerical and whose fortunes were based on speculations of fancy copper stock. But now, in the face of those harrassed developments and songs of ridicule, she has risen, and her importance is acknowledged. There is no longer room for doubt or controversy, and the tardy convictions of the most incredulous have yielded to the irresistible evidence of facts too notorious to be disguised or doubted. The Upper Peninsula of this State contains over twenty thousand square miles of territory, embracing the counties of Mackinaw, Chippewa, Delta, Schoolcraft, Marquette, Houghton and Ontonagon, and the islands in Lakes Superior, Michigan and Huron. There are no portions of country within the broad limits of our national domain that afford a more interesting subject of contemplation to the citizen whose pride is excited as he views the progressive developments of the varied resources of our entire land. With fisheries, acknowledged by those who are familiar with that department of our national wealth, as surpassing those of the north-eastern boundary of our Union; with iron mountains of a purer, better, and more abundant yield of that metal than has ever before been discovered in the known world, and with inexhaustible mines of copper, Nature seems to have lavished her stores of wealth to astound mankind.

That portion of Michigan needs only the cherishing care of the General Government, and the genial laws of our State to unfold still further and more successfully the immensity of her riches. Beyond all this, the Upper Peninsula, owing to its rigorous climate and remote position, demands considerations entirely separate from those which direct and control the welfare of the Lower. Her people labor under the disadvantages of a climate more severe than in any other section of our country, where snow, falling in October, frequently attaining a depth of seven feet in the course of the winter, lasts till the third month of spring.

It would seem doubtful whether a legislative body composed almost entirely of members chosen from the Lower Peninsula, having but limited means of knowing the wants and interests of a region so remote, and in session in the winter season when the only communication with that country is carried on by means of the dog-train, and

snow-shoes, and when the mail and travel are forced to pass through portions of three of our sister states to get to or from the Capitol of the commonwealth, can be made fully sensible of its wants so as to bestow that legislative action so much needed. The question has been mooted, and it has been thought by many, that the interests of that section would be best subserved by its organization as a separate State; but whether this would better its condition or not, is not the purpose of the committee to enquire; suffice it to say, they believe the citizens of the Upper Peninsula have no such views as lead them to desire such a separation, and that they will seek no such disembarment *unless unequal laws and an oppressive policy shall drive them to it*. Heretofore, owing to imperfect legislation, the mining interests in the Lake Superior country have suffered much, and the laws that regulate it still sit like an incubus upon its progress. At the hands of the Legislature that interest calls for relief; and, as the question of policy can no longer be doubted, it seems but proper and just, that following up the munificent donation of Congress for furnishing the means of constructing an outlet for the products of her industry, we should be equally liberal, and remove at least those obstructions of unequal law that have trammelled her operations.

Your committee are convinced, from the explorations and practical working of mines, thus far made under the most extraordinary embarrassments to personal enterprise, that no spot of earth, of equal extent, on the surface of the habitable globe, not excepting the golden regions of California, is equal in mineral wealth to the Upper Peninsula of Michigan. The entire coast of Lake Superior is some sixteen hundred miles, nearly one-third of which borders on our own State, hemming in over ten millions of acres of land within the boundaries of our State, which, though rugged and desolate in appearance, and containing comparatively only a small portion suitable to farming purposes, it is the wise policy of the Legislature, as well as the General Government, to develop by affording and creating inducements for the investment of capital and labor. In taking a view of the mineral products of that country, lying between forty-five and forty-nine degrees of north latitude, it is unnecessary to speak of the indications of the existence of silver, zinc, lead, manganese and coal, or cornelian chalcedony, agate, amethystine quartz and other minerals

which are there deposited ; but your committee will confine themselves to the duty of presenting a rapid sketch of its iron and copper deposits.

In the official report of Messrs. Foster and Whitney, made to the General Government in 1851, of that country and appointed for that purpose, in speaking of the iron deposits in the county of Marquette, those gentlemen say :

“ This district is unprecedentedly rich in the specular and magnetic oxide of iron ; and so far as relates to the magnitude of the masses, and the purity of the ores, it stands unrivalled. * * * *

Throughout the northern portions of township forty-seven, the iron ores exist in *inexhaustible quantity*, and under circumstances favorable to their developement. * * * Several analyses of these ores show them to yield at an average, about seventy per cent pure metallic iron.”

From experiments, made by Major Wade, of the Ordnance Department at Washington, the ductility and tenacity of Lake Superior iron, when compared with iron from Connecticut, New York, Pennsylvania, England or Sweden, is about as three to two, or one-half greater than either of them, and about one-sixth greater than Russian iron. Fourteen hills of this ore, some of them measuring a thousand feet in width at their base, are known to exist within a limited range of country, and yet these inexhaustible hills afford no criterion to the illimitable amount that must lie concealed beneath the surface of the earth. This, alone, might be envied as a source of wealth, by any State of our confederacy—an interest which certainly demands the favorable attention of this commonwealth, and which, in but a few years, must change the iron trade of the entire commercial world. But, bountiful as have been the rich gifts of iron ore in that wild and comparatively yet unknown region, nature seems not to have exhausted her “ horn of plenty ” in these abundant deposits, but they are far transcended by the still more remarkable stores of copper which are found deposited over a much wider range of country, and approaching much nearer to the pure metallic form.

We deem it unnecessary to recapitulate what has been done, and is now doing, in working these mines, where the click of the chisel is music to the miner, and where, hundreds of feet beneath the sur-

face of the earth, his persevering industry quarries out massive blocks of copper already smelted and refined in the grand laboratory of nature. "No place in the world," says the official report from which we have already quoted, "has thus far produced such astonishingly large masses of native copper as the country on the south side of Lake Superior, where the metal exists in regular veins, from which large masses, weighing more than eighty tons, have been excavated. It was generally supposed that these veins would run out as they were wrought to a considerable depth, but thus far no signs of exhaustion have been seen; on the contrary, the quantity of metal in the lodes steadily augments and the thickness of the masses increases."

Need we further allude to the wealth of this section of our Peninsula or eulogise the industry which, under the obstacles of nature and those imposed by legislation, has thus far developed the rich mineral deposits within our State? We might present a glowing picture of the promise they afford, but it might be deemed a sketch of fancy. Notwithstanding the business of mining in that region has scarcely commenced, already has there been produced and sent away, between seven and eight thousand tons of copper. An Adam Smith would say that, however profitable, labor and toil should not be taxed; that productive industry should ever receive the fostering and encouraging care of governments, and that the sweat of labor in profitable toil forms the true wealth and greatness of a nation. We cannot dissent from this reasoning, and deem that government unwise which seeks to fill its coffers by oppressive and unequal taxation on the capital which directs, and the labor which develops the hidden wealth of the country.

During the session of the Legislature of 1848, twenty-one charters were granted to Mining Companies in the Uupper Peninsula, containing provisions obnoxious and illiberal, by placing those adventurous Companies on a par with the Railroad and Banking Incorporations of the State, and exacting from them a heavier tax than by law is levied on labor in the more favored portion of the Lower Peninsula. What justice, we would ask, can there be in that measure which makes it necessary for associated individuals to apply to you for an act of incorporation, whose object is to unfold the sources of

your wealth, and give employment to labor, and then exacts from them the pound of flesh that you require in the bond that binds your banking institutions? You hold out inducements and invite capitalists from abroad,—you point them to the promising sources of wealth that lie hid in the subterranean store-houses of your territory, and would have them invest their money, and yet you meet them at the threshold with an oppressive taxation—you hold out your arms to welcome them, but crush them in the embrace.

The provisions for taxation in these acts of mining corporations demand that they shall each pay to the State an annual tax of one per cent. on the whole amount of capital actually paid in, and upon all sums of money borrowed by them. This tax is in lieu of all other taxes on the personal property, and in lieu of all State taxes on the real estate of the companies. In 1849, nine more mining companies were incorporated, six of which are subjected to the same provisions of taxation as contained in the charters of 1848, while the remaining three are made to pay one per cent. in lieu of all taxes whatever. To this liberal reduction, favoring these three companies, your committee can see no objection; but they cannot discover the justice of this inequality of taxation among companies engaged in the same business, and whose privileges should be equal.

In 1850, there were eighteen additional mining companies chartered; but again there were important changes from the charters of preceding companies, the most important being the restriction of one section of land to each of such companies, and carrying out the specific tax of one per cent. on the capital paid in and the amount borrowed, which tax is in lieu of all State taxes only. Such have been the unequal charters hitherto granted to the hardy pioneers of your northern regions. They have suffered under this state of affairs until the inequality of their operation has become as oppressive as the very burthen of the tax.

Under the present constitution, special acts of incorporation are prohibited. In obedience to that instrument, the Legislature of 1851 enacted a general mining law, but its operation tends more to subdue than promote the energies of that region of country. Indeed, so indefinite and illiberal are its provisions, that but two companies in operation, have organized under it, and these will close up their

affairs, unless more liberal provisions be granted to them. All that appears necessary, or required, is a just and liberal system, a simple and brief form of association, embraced in the bill which your committee report herewith.

The simple features presented, while they guard the interests of the State, are such as will meet the approbation and wants of those already engaged in mining and secure the investment of other capitalists who now await the action of the Legislature. What justice is there in a law which taxes one per cent. on money that has been expended in fruitless search, perhaps, for the minerals of our State? Willing at all times to pay a tax on the value of the ore found and sent to market, they deprecate a system that compels them to meet your tax collector who demands one per cent. on the amount they have expended in explorations. *It is hard enough that thousands upon thousands are expended every year in searching for the mineral bearing veins of the earth, without paying tribute for the privilege.* Large expenditures have to be made in the commencement of operations—buildings erected and machinery furnished—and after months of labor in localities where external appearances give indications of mineral deposits, perhaps all has to be abandoned because the veins and lodes become exhausted. No business in the world is more doubtful than that of mining; no expenditure more hazardous than that invested in mineral operations. Why then meet the capitalist and laborer at the threshold of the Upper Peninsula and demand one per cent. on the money expended in searching for localities and mines, when your resources would be developed and the treasury enriched by successful operations. The period of bestowing bounties on certain departments of labor is passing away, and the explorers of our mineral region ask no such inducement to stimulate them to toil and enterprise; but they protest against paying a license for the hazardous operations in which they engage. Under the operations of the old law, capitalists have appealed to other States and secured more liberal charters than our own State would grant. Citizens of this State, who have borne the heat and burthen of the day, who have endured privations of life to secure the rights of pre-emption, have been obliged to place themselves under the protection of these foreign corporations, giving them one-tenth of their interest in the land. The bill intro-

duced can work no harm to your pre-emptioner, nor the State, but will have the effect to hasten the development of your mineral wealth and increase the coffers of your treasury. Capital will flow in from the eastern cities, and even from fountains that have heretofore flowed into the mines of Cornwall and Spain. Its effect would be most happily felt by the farmer of the Lower Peninsula in the ready market which would call for the produce of his farm and dairy ; but we need not enlarge. We consider the proposed bill of vital importance to the Upper Peninsula—to the early and steady development of the mineral wealth of the State. *Give them such a law, which in justice they seek, and with the muscular arm of labor, no longer hanging paralyzed, they will blast deep in the caverns of the earth and bring out such wealth of their stores as shall make Michigan the market of a world.*

L. W. CLARKE,
Chairman.

[No. 7.]

REPORT of the Committee of Judiciary.

To the President of the Senate:

The committee to whom was referred the petition of W. Z. Blanchard and five others, citizens of Ionia county, asking the Legislature to alter or so amend the present collection law, in adapting it to the new Constitution, that the debtor shall not possess the entire advantage over his creditor, as at present; and also asking that the people may be relieved from the present worse than useless tax imposed on them for the support of town libraries, have had the same under consideration.

The petitioners are pleased to say that former Legislators, as well as the delegates to the convention who framed the present constitution, in their frenzied zeal to see who should be foremost in their imaginary philanthropy and good feeling towards the poor, lazy, shiftless, indolent vagabond, who is constantly prowling about, living upon the hard earnings of the more industrious and honest portion of community, have, in the judgment of the petitioners, out-Heroded Herod himself, in passing laws directly calculated to encourage this miserable portion of community.

Whether the above statement is true or untrue, your committee will not take upon themselves to decide, definitely and finally, but with modest deference to the confident assertion of the petitioners, thus dogmatically expressed, they would hint an opinion that said statement is not only untrue, but is an unmitigated libel upon men of pure motives and honorable purpose.

That some men when engaged in their public duties as legislators and as members of convention to frame our organic laws, sometimes

so shift and trim their sails as to evince an endeavor to catch the popular breeze, your committee have no reason to doubt, but that the majority composing such bodies do thus, they most unqualifiedly deny. Your committee cannot resist the conclusion that if the petitioners had in early life been more conversant with the teachings of the "school-master," who is said to be "abroad," and in riper years had been more familiar with the rich stores of wisdom and knowledge to be found in those unpretending "town libraries," for which they effect such "holy horror," they would consider that library tax a blessing, and not a grievance, calling for legislative aid.

That amongst us always have been, and probably always will be, men who by their indolence and improvidence, bring want and misery upon those for whose wants they are bound to provide, yet your committee cannot see the justice and humanity of that legislation which would wrest from the mother the small pittance of coarse food and the few articles of clothing collected by labor and toil, to feed and clothe her starving and ragged children, the table upon which they eat, the chairs upon which they sit, or the bed upon which they sleep, in satisfaction of a debt improvidently and carelessly contracted by the husband.

That the wife and children are thus protected from the rapacity of men like the petitioners, by the enlightened legislation of our own and other States, is to your committee a source of high gratification. It shows a lively participation in that spirit of progress which is the pride and glory of the day in which we live. It shows that the school master and the school library are doing their legitimate work, and gives bright promise of that day when intelligence and moral worth, and not money, shall be the guiding star of those who seek to inscribe their name high upon the roll of fame.

With the sincere hope that the petitioners may become more intimately acquainted with the town library, and may thereby become wiser and better men, and be led to submit to the school library tax with cheerfulness, your committee would recommend that said petitioners have leave to withdraw their petition, and would ask to be discharged from the further consideration of the subject.

A. GOULD,

Chairman.

[No. 8.]

REPORT of Committee relative to Lands returned delinquent for
Taxes.

To the President of the Senate:

The Committee to whom was referred the resolution of the Board of Supervisors of the County of Kent, in relation to a repeal of the laws which require a return of the lands delinquent for taxes, to the Auditor General's Office, would respectfully report that they have had the same under consideration.

Your committee are well aware that our present tax system which requires the return of lands delinquent for taxes, to the Auditor General's Office, is attended with considerable expense, and with some inconvenience to counties and individuals; yet in view of the fact that the present system has been long established; that it is calculated to produce entire uniformity in the manner of doing the business, and that without it there would be great difficulty and delay in collecting the State tax from many of the counties, your committee are not prepared to recommend a change of the system in that respect.

The resolutions also claim that the time for the sale of land delinquent for taxes should not extend beyond four months from the time the township treasurers make their returns to the county treasurers and that a longer time for the redemption of said taxes after sale should be allowed. Your committee can see no reason why the non-resident land-holder should not pay his taxes as promptly as the resident.

Your committee are however aware that a bill is now before the Senate involving all the above, as well as all the other questions connected with our tax laws; that in the discussion of that bill the above questions can be discussed and settled. They would therefore re-

port the said resolutions back, ask their reference to the committee of the whole, having charge of said bill, and ask to be discharged from the further consideration of the subject.

A. GOULD,
Chairman.

[No. 9.]

REPORT of the Judiciary Committee relative to the powers of the Legislature to authorize the appropriation of Normal School Lands for building Highways.

To the President of the Senate:

The committee to whom was referred a bill to authorize the Board of Education and the Trustees of the Michigan Asylums, to appropriate lands to open roads across certain Asylum and Normal School Lands, would respectfully report, that they have had the same under consideration.

The first section of the bill provides that the Board of Education and the Trustees of the Michigan Asylums, may, in their discretion, appropriate a quantity not exceeding one section of Normal School Lands, and eighty acres of the Asylum Lands, in the county of St. Clair, for the purpose of opening roads across said lands.

Your committee find that the act to establish a State Normal School, was approved March 28, 1849. By the sixteenth section of the act it is provided that "for the purpose of paying the principal of said Normal School and his assistants, the Board of Education, immediately after their appointment, shall locate fifteen sections of salt spring lands, and the same shall be denominated the Normal School Endowment Fund, and *shall never be appropriated for any other purpose.*" By the same act ten sections of said salt spring lands, are directed to be selected, and to be denominated "the Normal School Building Fund."

By an act supplementary to the above mentioned act, approved March 31st, 1849, provision is made for the sale of such of said lands as should be selected as the Normal School Building Lands, and the proceeds applied to the purpose of erecting buildidgs, &c., for said school.

By the same act provision is made for the sale of said fifteen sections, so to be selected, as the Normal School endowment fund, and it is also provided that the principal of the sums arising from the sales of said lands, "shall be and remain a perpetual fund," the interest of which, at the rate of six per cent per annum, shall be passed to the credit of the Normal School interest fund, to be drawn for to pay the Principal of the Normal School, or his assistants, or to the members of the board, as therein after authorized.

By an act entitled "an act to consolidate and amend the laws relative to the establishment of a State Normal School," approved March 25, 1850, the same idea is shadowed forth in language too plain to be misunderstood; viz: that the principal arising from the sale of these lands is to be "a perpetual fund," the interest of which is to be devoted to the support of the Normal School, and that alone, after the expenditure of a sufficient sum from said principal, not exceeding ten thousand dollars, to complete the necessary buildings.

Your committee do not claim that the Legislature have not the power, "by a vote of two thirds of the members present in each house," to alter, amend, or repeal the above act, so as to divert or dissipate this fund, were it not guarded by a law more potent than the above mentioned enactments, and they only refer to those enactments, for the purpose of showing the intention of the Legislature who laid the foundation for said school.

Soon after the last mentioned enactment, delegates met in convention to frame the constitution which is now the organic law of the State, the provisions of which we have no power to violate, in the passage of any act for any purpose whatever.

The second section of article thirteen of that instrument, provides that "the proceeds from the sales of all lands that have been, or hereafter may be granted by the United States, to this State, for educational purposes, and the proceeds of all lands or other property, given by individuals or appropriated by the State for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be *inviolably appropriated and annually applied to the specific objects of the original gift, grant, or appropriation.*"

Now in the original "appropriation" of these Normal School

lands, your committee do not find that the "specific object" was the building of roads through or across them, but they do find the "specific object" to have been to create a perpetual fund, the interest of which was to be applied to pay for the services of the Principal of the Normal School or his assistants, or the members of the board of education, and no other.

Viewing the question, therefore, as one of power, and not of expediency, your committee cannot resist the conclusion that to take any of the Normal School Lands and apply them to the building of highways, would be a clear and palpable violation of the above section of the constitution; would be attempting to exercise a power expressly prohibited by it. If, under the plea of expediency, we can take these lands to build highways, when forbidden to do so by the constitution, we can easily invent a similar plea for taking them for almost any other purpose. If we can thus take one section, we can take the whole of these, and also the University and Primary School lands, and thus not only a portion, but the whole of the School and University fund, may be devoted to objects different entirely from that contemplated in the original appropriation. Your committee are therefore of the opinion that if the Legislature shall authorize the sale of those lands for any purpose, the State will be bound to give to the Normal School fund credit for the amount for which they shall sell, and to pay the interest thereon in the same manner that it would, had the lands been sold for cash, and the money paid into the State Treasury.

In regard to the eighty acres of Asylum land proposed in said bill to be appropriated to the building of roads, your committee find no constitutional provisions standing in the way of its appropriation; yet, in view of the fact that an eighty acre lot of land will be likely to accomplish but little in the way of opening and improving roads, they doubt the expediency of allowing such appropriation.

Your committee have been referred to the doings of a previous Legislature as establishing a precedent for the appropriation of the Normal School lands mentioned in the bill now under consideration; and in reference thereto, they beg leave to say that so far as the above mentioned precedent can go as matter of argument it was entitled to, and has had due consideration, but they

do not consider it sufficiently convincing to overrule a plain provision of the constitution.

They would therefore report said bill back to the Senate, recommending that it do not pass, and ask to be discharged from the further consideration of the subject.

All which is respectfully submitted.

A. GOULD,
Chairman.

[No. 10.]

REPORT of Committee on Incorporations, relative to the Michigan
'Insurance Company.*To the President of the Senate :*

The Committee on Incorporations, to whom was referred a bill to amend certain sections of an act to amend and consolidate the act to incorporate the stockholders of the Michigan Insurance Company of Detroit, and the several acts amendatory thereto ; having had the subject under consideration, report the same back without action and ask to be discharged from the further consideration of the same.

The committee would respectfully but briefly submit the following as some of the reasons by which they have been actuated in arriving at the conclusion to submit the following report. On examining the revised constitution of our State, it will be found that article fifteen, section sixteen of that instrument reads as follows :

“Previous notice of any application for an alteration of the charter of any corporation *shall* be given in such manner as may be *prescribed* by law.”

This clause of the constitution obviously contemplated Legislative action, establishing and prescribing some rule, the compliance with which should be necessary as a preliminary step to the amendment of all chartered institutions. In conformity to this clause of the constitution, the Legislature of 1851 passed “an act to provide for notice of application for alteration and amendments of the charters of incorporations,” which act will be found on pages 153 and 154 of the session laws of that year. Section one of that act reads as follows :

“The People of the State of Michigan enact, that after the session of the Legislature for the year one thousand eight hundred and fifty-one, previous notice of any application to the Legislature for an alteration of the charter of any corporation shall be given in the manner

hereinafter provided. When the application is made by or on behalf of the corporation, such notice shall be given and signed by the mayor, president, cashier, secretary or other principal officer, or a majority of the directors, aldermen or trustees; and when made by or on behalf of one or more individuals, then by the person or persons making the same, and all such notices shall set forth briefly the nature of the alteration applied for."

Section two contains detailed specifications of the time and manner of giving such notice; expressly declaring that such notice shall be published "for at least four successive weeks, the first publication whereof shall be at least thirty days prior to the making such application." There follows a clause providing for the filing of such notice in the office of the Secretary of State, and clerk of the county &c., in case the publisher of any paper will not admit such notice into his columns; and the section then concludes with this express declaration; that "proof of the publication or filing of such notice as in this section mentioned, by affidavit of the publisher or certificate of the Secretary of State, shall accompany every application in this section mentioned."

By an examination of the latter clause of section two, it will be readily seen that the publication of the notice in question is equally contemplated, whether the application is made "by or on behalf of the corporation," or "by or on behalf of one or more individuals."

It was the opinion of the committee, upon a careful examination of the subject, that the object and purpose of this notice was never intended to be merely *ex-parte* in its operation, and designed alone to impose a duty upon the body corporate, from which all other parties should be free; but that it was equally intended to operate as a safeguard to protect the corporation in the enjoyment of its guaranteed corporate rights on the one hand, as to protect community against any improper expansion of those corporate powers, on the other, and that the corporation whose charter is to be amended, is entitled to the same notice from any party desiring such amendment, as the public are entitled to when the proposition to amend proceeds from the corporation itself. The committee cannot conceive that it was the intention of the framers of the constitution, to make any distinction in this respect, between corporations formed for banking pur-

poets, and those formed for the construction of Railroads, Plank roads, &c. But it is here worthy of remark, that while every proposition to amend a Railroad Charter, has been accompanied by formal application, and every application for the amendment of such Railroad Charters that has been referred to this committee, has been accompanied by a copy of the contemplated notice, and the requisite affidavit of its publication; in no one case where a Bank Charter is proposed to be amended, except in that of the Government Stock Bank of Ann Arbor, has there been any application or copy of notice, or affidavit of publication presented.

Some doubts have existed from the beginning of this Legislative session in the minds of individual members of this committee, as regards the constitutional power to amend any charter, without proof of the published notice already alluded to, and though this committee have reported sundry bills involving the same principle, they were understood to be bills introduced by certain Senators at the instance and suggestion of some of our principal State officers; and while this committee have reported the bill back, in order that legislative action might not be needlessly retarded, and in order that the Senate might have an opportunity to raise and discuss the constitutional question involved, it has ever been the intention of the committee to investigate and examine the subject, and to submit their views to the Senate before any such amendment should receive the final action of this legislative body.

The committee will here take occasion to remark that it has been suggested that the law of 1851, prescribing the time and proof of publication of notice is no part of the constitution itself, but merely a legislative enactment, subject to be altered, amended or repealed at will, and that the act itself by which we amend a charter, would be constructively an amendment of the law prescribing the above mentioned notice. To this view of the subject the committee can by no means subscribe. The 25th section of the 4th article of the constitution expressly declares that "no law shall be revised, altered or amended by reference to its title only; but the act revised, and the section or sections of the act altered as amended shall be re-enacted and published at length."

The constitution has expressly declared that the notice "shall be given in such manner as may be prescribed by law." The law of 1851 has prescribed the "manner," hence it is clearly evident that until the law of 1851 is formally repealed, its conditions must be complied with, and that a compliance with its conditions is not demanded by the mere restraining influence of a statutory enactment but by the potent and mandatory edict of the constitution itself.

It has also been suggested, that this constitutional proviso was merely intended to have application to those cases where the body corporate are desirous to apply for amendments of their charter; but that the State has reserved the right of legislating upon those charters at will. Let us for a moment examine this position. In this regard, the committee would suggest the inquiry—who is the State, for purposes herein contemplated, but the Legislature? and if the Legislature have the right, without the requisite notice given, then is that clause of the constitution requiring the notice rendered nugatory. For by what rule of construction are we to determine whether the Legislature in the amendment of a charter, are acting for the people or for the company? For instance, a member of either branch of the Legislature, obtains leave to introduce a bill. The bill is introduced and referred to the appropriate committee—reported back—referred to the committee of the whole and placed on the general order, and after passing through the ordinary routine of business, is finally passed upon and becomes the law of the land.

Is this constitutional? It is either constitutional, or it is the opposite. And by what rule are we to determine? Will any one assert that the abstract mental impulse which prompted the member introducing the bill could determine its constitutionality? The Legislative body is ever pre-supposed to be acting for the State. If, therefore, the State have a right to amend these charters, independent of that clause of the constitution which requires notice to be published, then may the Legislature exercise that right, independent of the constitution, and the clause requiring notice to be given, is a dead letter and a farce.

The committee are unable to believe that the framers of the constitution have fallen so far short of the accomplishment of their obvious aim and object; but on the contrary, are forced to the conclusion that a compliance with that clause requiring previous notice of application for amendment of a charter, forms an indispensable prerequisite to Legislative action thereon.

All of which is respectfully submitted.

ENOS GOODRICH, *Chairman.*

[No. 11.]

REPORT of Committee on the supplementary bill to the Primary School Law.

The Committee to whom was referred the supplementary bill to the Primary School Law, have had under consideration the same, and the chairman would report the bill back to the Senate without a amendment, and respectfully recommend that it do not pass.

Some of the reasons by which your committee were actuated in their decision, are herein set forth, as follows:

It is a well settled principle in our constitution, that all laws "shall be general in their character." The principles upon which our institutions are founded, are equal justice to all. Our system of education therefore must be general in its character; free for all sects, and all parties to organize under its beneficent provisions, which have hitherto been so prosperous among our people.

Each town regulates its own internal affairs. The inspectors are elected by the people, and regulate the districts; each district makes its own officers by the elective franchise also, whose duty it is to employ competent teachers. Those teachers, together with the district officers, may form the character of the school, only requiring secular instruction as the officers of said school may direct. With such liberal provisions as these, we see no just cause of complaint by any religious body or sect. Moreover, if the prayer of the petitioners be granted, the gate is thrown wide open for every religious sect in our land, and in anticipation of such an event, we see petitions are already presented for similar objects, and professedly for sectarian purposes,

which, if we begin to grant, we strike a death blow at once, at our hitherto prosperous primary school system.

We assume that the people of the State are in a certain sense the State, and that the children of the State will soon be the people of the State, and of course the State itself. Hence, the right to provide for the welfare and safety of the State, by education, in preparing the children of the State, for good citizens of the State.

It therefore is the bounden duty of every part of our population to contribute to the accomplishment of this end. Our educational system is alike free to the adopted citizen and the native born, and we deem it of vital importance to educate our youth together, that there may be an identity, interest, feeling and nationality.

Furthermore, the bill of your petitioners places public education under any teacher or individuals who are competent to teach the English language. Such individual or individuals fulfilling these conditions may nevertheless institute a course of instruction not fulfilling the intention of the State, in obtaining a system of public instruction and aiding the same by the moneys of the State.

But in addition to all this, it opens the door for the express violation to the constitution, Art. 4, Sec. 40: "No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, Theological or religious Seminary, nor shall property belonging to the State be appropriated for any such purpose." The individual or individuals teaching such schools under this bill, would have full liberty to introduce religious instruction according to the tenets of any religious sect or society, to an indefinite extent, so as in fact to make the school a "Theological or religious Seminary." Nay, the individual so engaged in teaching, may be under the direction of a "religious sect or society," and connect the school under authority of the same, for the very express purpose of inculcating and disseminating its religious opinions and dogmas.

The above view is confirmed by the fact that the present bill is brought forward at the instance, and on the petition of a religious sect or society, who devise and claim the privilege of inculcating their peculiar religious opinions, in schools placed under teachers of their own denomination for this purpose.

The result of this bill, therefore, would be to change our primary school system, from schools of secular and useful learning, to "Theological and religious seminaries."

E. S. MOORE,

Chairman.

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[No. 12.]

**REPORT of Trustees of the "Detroit Savings Fund Institute,"
made in pursuance of the requirements of their charter.**

DETROIT SAVINGS FUND INSTITUTE, }
January 1, 1858. }

To the Hon. Legislature of the State of Michigan:

The undersigned respectfully report this institution have on deposit, eighty three thousand six hundred and one dollars and eighty-nine cents, which amount is invested as follows, viz :

In notes secured by individual endorsement.....	\$52,932 18
Secured by mortgages and stocks.....	19,005 51
Balance of judgment.....	4 88
Cash on hand.....	11,659 32
Total:.....	<u><u>\$83,601 89</u></u>

All of which is respectfully submitted.

SHUBAEL CONANT,
H. N. WALKER,
Z. PITCHER,

Finance Committee of said Institute.

1919

1919

1919

[No. 13.]

REPORT of the Select Committee, which were appointed "to investigate and enquire into the alledged misapplication of eighty-four thousand dollars of 'part paid bonds,' said to have been paid in by the Michigan Southern Rail Road Company on their indebtedness to the State."

The committee beg leave to report: That as far as to them seems necessary, they have investigated and enquired into the matter for which they were appointed, and herewith submit to the Senate the result of their investigations.

Soon after your committee were appointed, they became aware that the public mind, to some extent at least, was being misled, by the reference which was made to the subject by the Auditor General in his recent report. The conclusion which some seemed to have arrived at was, that by some novel system of financiering, the State had been defrauded to the whole amount of the said eighty-four thousand dollars; and this, it has been contended, was clearly deducible from the Auditor General's report. The Auditor General in his recent report, when speaking upon this subject, says: "Of the amount of part paid bonds surrendered and funded the past year, I am advised from the most reliable authority, that \$84,000.00 funded last December for H. H. Brown, of the Peninsular Bank, were paid in on the last year's instalment due from the Michigan Southern Rail Road Company. The system of financiering adopted to convey those bonds from the State to the vaults of the bank, is above my comprehension." The language of the Auditor General upon this subject being so vague, and so liable to misconstruction, and believing, that by many, this language had been misconstrued, the committee thought it advisable to ask the Auditor General to explain the meaning and intent of the language above referred to. The Auditor General very promp-

tly and cheerfully responded. His explanation is herewith submitted, and reads as follows :

" AUDITOR GENERAL'S OFFICE, }
Lansing, Mich., Jan. 22, 1858. }

HON. F. S. SNOW, *Chairman of Select Committee,*

To whom was referred that portion of the Auditor General's report relating to the \$34,000,00 part paid bonds funded for H. H. Brown, of the Peninsular Bank.

SIR—Much to my surprise, I have lately learned, that that portion of my report relating to the \$34,000, funded for H. H. Brown, had been misconstrued. It has been said that I charge Mr. Brown with appropriating \$34,000 of part paid bonds belonging to the State, without any equivalent. I meant no such thing—my charge is, that those bonds were paid in on indebtedness due from the Southern Rail Road Company; that Mr. Brown, by some means to me unknown, came in possession of those bonds, and instead of surrendering them to be credited to the Southern Rail Road Company and canceled, as the law required, he got them *funded*—that is, procured new bonds to the amount provided by law, and gave the State credit for so much *cash* received from said company.

Now, any one conversant with our State debt and the present condition of our finances, will readily see that 'the interests of the State have materially suffered by this transaction,' in that we have been paying interest for the past year on those bonds, and must continue to pay interest upon them until redeemed, while a large surplus belonging to the State is lying idle in the treasury, or in the vaults of the Peninsular Bank.

Yours Truly,
JOHN SWEGLES,
Auditor General.

It will be seen by the explanation of the Auditor General, that the State, by the transaction referred to, met with no loss, except a prospective one; the State received the whole amount then due from the Michigan S. R. R. Company, but received her pay in *cash*, instead of receiving her own bonds, and by which transaction the State has suffered, and will continue to suffer loss. But whether it is such a loss, or such a transaction as to give the State a right to complain, is what your committee has endeavored to ascertain.

The Auditor General in his report says: "I am advised by the most reliable authority, that \$84,000, funded to H. H. Brown, of the Peninsular Bank, were paid in on the last year's instalment due from the Michigan Southern Railroad Company." Now, any one can see that if these bonds were so paid in, then indeed, great and palpable injustice has been done the State of Michigan; for by receiving cash instead of bonds, on the indebtedness referred to, the State has to pay an interest on those bonds of about \$2,500, annually, and must continue to do so for many years to come, whilst the funds received in their stead, have been, and are still lying idle in the Treasury.

The committee have endeavored to get all the light and proof they could upon this branch of the subject. It was presumed by us that the State Treasurer could give to the committee some information upon the subject. Acting upon this supposition, the committee called upon, and asked him to furnish the committee, in writing, with all the facts in his possession, touching this matter. The Treasurer immediately responded, and furnished the committee with a statement in writing, which reads as follows:

STATE TREASURER'S OFFICE, }
Lansing, Jan. 24, 1853. }

HON. F. S. SNOW, *Ch'n of Select Committee of Senate*:

DEAR SIR—I have the honor to acknowledge the receipt of your favor of this morning, in which you request me to furnish your committee "with the facts as you understand them, in relation to the \$84,000 part paid bonds, referred to by the Auditor General in his recent report." I know but little in regard to the matter, of my own knowledge, as I never saw the bonds, and never knew of them until after they were funded by H. H. Brown, Esq., Cashier of the Peninsular Bank. The bonds were funded by Mr. Brown, as appears by the books of the Auditor General, on the 12th day of Dec. 1851, and on the 19th of the same month Mr. Brown handed me a form of certificate, which he informed me he had received, with the bonds, and a letter from E. C. Litchfield, Esq., Treasurer Mich. Southern R. R. Company, in which letter Mr. L. requested me to procure the execution of the certificate, and return to him. This certificate set forth that these bonds had been surrendered in payment of a debt due the State, and I, under the supposition that they had been so

surrendered, wrote to Mr. Litchfield, promising to procure its execution and forward it to him. But as soon as I discovered, afterward, that the bonds had been funded instead of surrendered, in payment of a debt due the State, I acquainted Mr. L. with the fact. This is all the information I have on the subject; but Mr. Brown, if called upon by the committee, will be able to give all the desired information, and I respectfully request of the committee that Mr. Brown may be called before you and examined in regard to the facts involved in your inquiry.

I have the honor to remain,

Very Respectfully

Your Ob't Serv't,

B. C. WHITTEMORE,

State Treasurer.

It will be seen by the statement of the State Treasurer, that he knew but little about this matter, and indeed nothing, until after the said bonds had been funded to H. H. Brown, Esq.; for he says: "I never saw the bonds, and never knew of them until *after* they were funded by H. H. Brown, Esq." At the close of the statement of the Treasurer, he respectfully suggests that if Mr. Brown was called before the committee, he could, and would give all the desirable information upon the subject, and asks that he (Brown) may be so called and examined. Upon this suggestion, the committee requested Mr. Brown to appear before them, and give in his testimony. In compliance with our request, H. H. Brown, Esq., appeared before the committee, when the following questions were propounded to him in writing, and answered by him in writing, and sworn to:

1st. Are you an officer of the Peninsular Bank; if so, what and how long have you been?

2d. State what you know relative to the State bonds in question.

3d. Who sent the bonds; to whom particularly were they sent, to you, the Peninsular Bank, or the Treasurer of this State?

4th. To whom was the letter accompanying the bonds sent, or directed; who received it; by whom was it signed; where is it, and what were its contents; can you produce it; if in Detroit, cannot you send for it, and any other letters touching this matter. Have any other letters passed between you and Litchfield relative to these bonds?

5th. Did you carry Litchfield's letter accompanying the bonds to Pontiac or elsewhere, to the Treasurer of this State; did he retain the letter; do you know what his reply to Litchfield was?

6th. Did the Treasurer of the State know that the bonds were sent to pay off any indebtedness to the State; did he ever give you permission in any way to use said bonds, other than to pay indebtedness to the State?

7th. How came he to write a letter to Litchfield, acknowledging the receipt of the letter accompanying the bonds?

8th. Is Litchfield a stockholder in the Peninsular Bank?

9th. Where are the bonds received by you, for those surrendered; are these owned or possessed by the Peninsular Bank?

10th. Have you had any conversation with Litchfield about these bonds; have you told him they were funded and that you had received new bonds for them, and had not paid any indebtedness of the Michigan Southern Railroad Company to the State with them; what did he say in reply?

The statement of Mr. Brown appears to be a frank one, and there seems to be no studied effort on his part to cover up or conceal any agency he had in this matter, as his answers appear to show, and which are herewith submitted.

TO THE HON. F. SNOW, *Chairman Special Committee* :

SIR—In reply to your interrogatories, I beg leave to say, first, I am Cashier of the Peninsular Bank, and have been so from its organization.

In the month of December I received from Edwin C. Litchfield, of New York, one hundred and ten thousand dollars, in part paid bonds of the five million loan, with a request that I should get a portion funded, and with the balance I should pay an instalment due the State from the Southern Railroad. I took the bonds myself to Lansing, and presented them to the Auditor General to be funded.

He did not have enough blank bonds signed by the Governor, for the whole amount. He gave me about \$13,000 in new bonds, and subsequently the balance, the whole amounting to something over fifty-six thousand dollars, all of which became the property of the Peninsular Bank. The bonds were sent to me, (I am quite certain,) as Cashier of said Bank.

I think the letter accompanying the drafts was directed to me : it was short, if my memory is correct, and alluded to a statement and calculation of the bonds made by a clerk in the office of Litchfield. I brought it to Lansing with the bonds, and presume I have it now at home. All the letters and papers accompanying the bonds, were together in the package of bonds that I brought with me to Lansing, and no concealment of any thing pertaining to them, was made by me.

I have had several conversations with Mr. Litchfield since upon the course pursued by me, and it met his approval.

I do not recollect of saying any thing to Mr. Whittemore in relation to the bonds until after I had them funded ; I told him then what I had done, and he remarked that I had a right as the agent of Littlefield, to pay the amount in such manner as I saw fit—that all he could require was bonds or money, at the option of the debtor. This was after the debt had been paid to the State.

I do not think the Treasurer knew the bonds were sent to pay the State. I had no occasion to enquire of him whether he would accept money in lieu of bonds, for I understood my own right in the premises. He had no control over the bonds, and consequently permission from him to use them was wholly unnecessary.

Mr. Littlefield sent a certificate in blank to be signed, which I handed Mr. Whittemore and requested him to get it executed, and said to him—

“ Mr. Litchfield is a large stock-holder in the Peninsular Bank, and has furnished the bank a large amount of the unrecognized bonds in addition to 110,000 above mentioned.”

His interest was alone consulted in this matter. A portion of the adjusted bonds are now the property of the bank, and a portion have been surrendered to the State and canceled.

The principal and leading facts in this statement are sworn to positively : the minor ones from the best of my memory.

H. H. BROWN.

Subscribed and sworn to before me this 28th day of January, 1858.

C. J. FOX,

Not. Pub. Ing. Co. Mich.

It will be seen by the statement of Mr. Brown, that he is the cashier of the Peninsular Bank, and that as such cashier, in the month of December, 1851, he received from Edwin C. Litchfield, of New York, one hundred and ten thousand dollars in "part paid" bonds of the "five million loan," with a request that he should get a portion of them funded, and with the balance pay an instalment due the State from the Michigan S. R. R. Company. But it would seem that Mr. Brown preferred to have *all* the bonds funded, and pay in *cash*, the amount due the State from the S. R. R. Company. Now, it is admitted on all hands that the Company had the right to pay in cash, instead of bonds, if they so desired. This being so, the committee are led to inquire whether this Company, or H. H. Brown, Esq., as agent of this Company, has done anything more, or anything worse than to avail himself of a plain and undisputed privilege. It would seem that Mr. Brown was the agent of the said Company, and in no sense was he the agent of the State; if this be so, then is he responsible to the Company, and not to the State in his transactions in regard to this matter. No blame, surely, can rest upon the State Treasurer, for by the showing from all quarters, he is clearly innocent of any dereliction of duty. Mr. Brown says, the Treasurer did not know the bonds were sent to pay the State; he had no occasion to inquire of him, &c.

It appears that Mr. Litchfield, Treasurer of the Michigan Southern Railroad Company, is a large stockholder in the Peninsular Bank, and Mr. Brown said he consulted the interests of the said Litchfield, and also that he approves of the course which has been taken in regard to these bonds.

The committee, from the light they now have upon the subject, are unable to discover that wrong has been committed by any one. It seems to be a legitimate business transaction, and one which does not seem to demand legislation. It was undoubtedly unfortunate for the interests of the State, that the Company, through their agent, chose to avail themselves of a privilege they evidently had, and paid the State in cash, instead of surrendering part paid bonds, to the amount of their indebtedness; for by this act the State has been compelled to lose the interest on this amount of surplus funds; but there

does not seem to be any remedy for it, or any way to get redress, consequently your committee are of the opinion that further action is uncalled for and unnecessary, and ask to be discharged from the further consideration of the subject.

F. S. SNOW,
Chairman.

[No. 14.]

REPORT of the majority of the Judiciary Committee, upon the Memorial of the Detroit and Maumee Railroad Company, for an amendment to its charter.

To the President of the Senate:

The undersigned, a majority of the committee to whom was referred the memorial of the Directors of the Detroit and Maumee Railroad company, asking an amendment to their charter, would respectfully report that they have had the same under consideration, and have taken some pains to ascertain the facts in relation to this act of incorporation, and the doings of the company under it.

They ascertain that the Detroit and Maumee Railroad Company was incorporated by an act approved August 25th, 1835, under which the company was organized, and a board of directors elected, all the stock having been subscribed which was required by the charter, preparatory to a full and complete organization of the company.

The books for the subscriptions of the stock was made by the commissioners appointed] by the act of incorporation, and by and in accordance with a notice duly published, as therein provided. At the first meeting of the board of directors, John R. Williams was chosen President of the board, and John McDonell was appointed Secretary of the same. Two or more annual elections were held before the year 1838, and at the annual meeting of the stockholders in the year 1837, a series of by-laws were adopted by the stockholders, and it was determined to make an effort to push forward the work. It had, however, become expedient to have some amendments to the charter, allowing the company more discretion in the selection of its route.

Accordingly, in the year last named, the company applied to the Legislature for the purpose, and in compliance with its request, the

act approved March 13, 1837, was passed, authorizing the company to select such route as it deemed most for the public interest, provided that Havre should be made a point in the line of the road. That act having been passed, Sylvester W. Higgins was appointed by the board of directors, to survey the route, and he performed that service at considerable expense to the company, for which the stock subscribed was assessed.

That service was performed during the year one thousand eight hundred and thirty-seven. In the course of that and the next year, the company having failed to interest eastern capitalists, applied to the Legislature again for an amendment of its charter, and an amendatory act was passed, which was approved, April 1, 1838; reciting the importance of the road and the fears of the company that it would not be completed within the time limited by the act, and extending it to the year eighteen hundred and forty-three, and confirming to the Company all its rights, franchises and privileges. Thus by legislative enactment in two several instances, recognizing the full existence of the company, and its action as a corporation, in fact, as well as in name.

The company, in consequence of the embarrassments in the moneyed world, which followed the years 1836 and 1837, (with which we are all familiar,) was unable to raise money for the prosecution of the enterprise, and failed to complete the work by the time fixed in the last amendatory act. In this position its affairs have been permitted by both the Company and the State, to remain until the present time.

The Company now ask simply an act authorizing it to avoid Havre in its route, and to issue its corporate bonds and borrow money, and mortgage its road as security, and is willing to guarantee its completion in eighteen months.

By the foregoing statement the following facts are established, viz:

1. That an act of incorporation was passed August 25, 1835, under which a company was fully organized:
2. That as such company, and after such full organization, by-laws were adopted; assessments upon stock paid in; the route of the proposed road surveyed by an engineer chosen by the company, and at the expense of the corporation:
3. That as a company, application was made in its behalf to the Legislature at two successive sessions, and important amendments

were made to its charter; the last of the amendatory acts clearly and fully recognizing its then corporate existence, and giving until January 1st, 1843, to complete the road.

4th. That the road was not completed by the time fixed by the amendment, and the work upon it has not proceeded to a permanent location of the route. Upon this state of facts, two questions arise, viz:

1st. Has the Legislature power under the constitution to amend this charter? and

2d. If it has power, would it be discreet and proper to exercise it?

Section 8, of article 15 of the constitution, says that "The Legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two-thirds of the members elected to each house, nor shall any such act be renewed or extended."

In the above extract, the undersigned can, as they think, easily discover a power by implication reserved to the people to amend a charter in the manner above indicated, provided there is an existing corporation with corporate vitality and life.

The undersigned have no difficulty in coming to the conclusion that in regard to the company referred to, it was fully organized, and by virtue of such organization, it possessed full and complete corporate life and vitality, and became possessed of such rights, franchises and privileges as are enumerated in its charter; of which life and vitality, and rights, franchises and privileges it can be divested only by the judgment or decree of a court of competent jurisdiction.

Upon this point, the undersigned would cite an extract from the opinion of the high court of errors and appeals, in the State of Mississippi, in the case of Arthur vs. the Commercial & Railroad Bank of Vickburgh, found in Smede's & Marshall's reports, at pages 431 and 432, wherein it is said: "One of the leading motives assigned for making the conveyance, was, to prevent a forfeiture of the charter. The charter declares that if the road be not completed within six years from the first election of directors, the act of incorporation shall be null and void. Notwithstanding this declaration, it is well settled that the charter would not be void until the State, by proper judicial proceeding, had obtained a judgment of forfeiture."

In an opinion of the supreme court of Pennsylvania, in the case

of *Irwin vs. Lumbermens' Bank*, found in volume 2, of *Watts & Sergeants' reports*, at pages 203 and 204, it is said that "The act of 25th of March, declares the charter of a bank neglecting to pay or declare dividends, absolutely *null and void*, and of no effect whatsoever, and that the bank thenceforth shall be deemed and taken as dissolved, unlawful and unincorporated."

"The 7th section of the act incorporating the *Lumbermens' Bank* also declares that no discount shall be made on any note issued by the bank until the whole of the capital stock shall be paid in."

"These prohibitions and restrictions are very positive, and expressed in strong language, and if the Bank has omitted or neglected to comply with them, and the proper steps had been taken, the charter would have been declared by the proper authority, null and void. But the difficulty which meets the defendants is, that we cannot judicially know, nor can we now investigate (in a collateral way) the truth of these allegations: for if there be anything settled beyond all cavil and controversy, it is that the violation of a charter of incorporation cannot be made the subject of judicial investigation in a collateral suit. The only evidence competent to prove the forfeiture of a charter, is the judgment of a court directly on the point, and no inferior evidence can be admitted for that purpose, unless it is otherwise directed by the Legislature, in express and positive terms."

In the case of the *People vs. Hillsdale and Chatham Turnpike R. Company*, reported in 25th *Wendell's Reports*, page 257, the Supreme Court of New York say: "We have a statute ever since April, 1825, which provides that whenever any incorporated company shall, for one year, have suspended the business of such incorporation, such company shall thereby be deemed and adjudged to have surrendered the rights, privileges and franchises, granted by any act of incorporation, and shall be *deemed to be dissolved*. That is to say, an information may be filed and pursued to judgment of dissolution, not that the corporation shall be deemed at an end without such proceeding. This, according to the case cited from 13 *Lou. Rep.*, would not of itself destroy the existence of the corporation, even if it had declared the suspension to be *ipso facto*, a dissolution, but would only be understood as furnishing a substantive ground for a judicial proceeding."

The above, and numerous other decisions that might be cited, establish fully, in the opinion of the undersigned, the position, that when corporate rights, franchises and privileges have been once vested, they continue until taken away by the power conferring them, or by the proper judicial tribunal, in giving effect to the laws of the State.

Such being the law, the undersigned would ask whether this company was not at some time possessed of these rights, franchises and privileges; and if so, when they have ever been taken from it by the Legislature or the proper judicial tribunal? If they have not been so taken away, they of course exist, and are now in a situation to be abridged or enlarged by the Legislature; to be taken away, or warmed into more vigorous vitality by the same power which at first gave it existence.

Having thus disposed of the first question, the undersigned come to the second, to wit: the question of expediency.

It is admitted that no *new* acts of incorporation can be passed by the Legislature; that all new companies are hereafter to be formed under general laws, if formed at all.

It seems also to be conceded that a special charter is more valuable and desirable than any one can be under a general law framed under our present constitution; for under that no general law can be framed, which may not be "altered, amended or repealed, by a majority vote of both branches of the Legislature, while with most if not all of our special charters, a vote of two-thirds of the members elected to each House, is requisite to alter, amend or repeal them.

The fact, if not conceded, will in the opinion of the undersigned, be soon demonstrated, that a strong, well grounded and favorable charter only, can win to us foreign capital to build Railroads on most, if not all the routes now projected in our State, and that such and only such, will inspire the capitalist with confidence sufficient to induce him to invest his money.

It has been urged by some, and in high quarters, that by the adoption of section 1, of article 15, of the constitution, which says that "corporations may be formed under general laws, but shall not be enacted by special act, excepting for municipal purposes," we have definitely settled, the question that our Railroads hereafter constructed are to be under general laws and not under special acts.

With due deference to the opinion of others, the undersigned can infer nothing more or less from the above than is expressed in it—that no new special charters shall be created, but that those already existing may be amended.

The undersigned can see no more justice in refusing to amend an existing charter, when the company have expended one hundred or five hundred dollars, than in refusing to amend one where the expenditure has been five millions of dollars. The vested rights, franchises and privileges of a company whose outlay has been but one hundred or five hundred dollars, may be just as important and dear to it, as they are to the one that has invested its five millions. The principle is the same, the difference is only in the amount.

If the constitution has by inference and implication, settled the question that those companies who have invested small sums must be disfranchised and their corporate privileges taken from them, then let us make a clean sweep and repeal all existing charters, and bring ruin upon thousands, simply to carry out a principal or command, not found in our present constitution, but as some contend, deducible from its spirit. The undersigned are of the opinion that that instrument works injury and inconvenience enough to our State in its varied interests; in its express commands and prohibitions, without resorting to its spirit or its inferences, for new, uncertain and undefined mischief.

The company have furnished to the undersigned, legal proof of notice of the intended application to amend their charter in the manner above stated, and being unable to see any reason or justice in refusing the prayer of the petitioners, they herewith report a bill and ask to be discharged from the further consideration of the subject.

All which is respectfully submitted.

A. GOULD,
GEO. R. GRISWOLD,
Majority of the Jud'cy. Com.

[No. 15.]

REPORT of the minority of the Committee on the Judiciary, upon the memorial of the Detroit and Maumee Rail Road Company, for an amendment to its charter.

To the President of the Senate:

THE undersigned, the minority of the committee to whom was referred the memorial of said company desiring an amendment of its charter, respectfully reports: That he has endeavored to give the subject that attention which, from its importance it requires, and the limited time allowed him for that purpose would enable him to do; and the undersigned would here remark, that he was not consulted by the majority of the committee in making up their report upon this memorial; nor has he at any time been informed by either of the other members of the committee, that a meeting of the committee was to be held for the purpose of taking into consideration the memorial above referred to. The undersigned, therefore, in his desire not to impede, or in any manner delay legislation, has been compelled to submit this report without having bestowed upon the subject that consideration which otherwise he would gladly have done.

The report of the majority of the committee assumes that all of the prerequisites necessary to give the charter of the Detroit and Maumee Rail Road Company validity, have been fully complied with; whether the majority have come to this conclusion upon evidence submitted to them, or have merely taken the assertions of interested parties as evidence, the undersigned is unable to determine; certain it is, however, that no evidence of that kind has been submitted to him; neither has he been informed that any such evidence exists, save from the majority report of the committee.

The undersigned has carefully examined the act of incorporation of said company, and the amendments thereto, from which it appears that in the original act of incorporation, it was provided, that if the

said corporation thereby created, should not within three years from the passage of said act, commence the construction of said rail road, and should not within seven years from the passage of said act, construct, finish, and put in operation said rail road within the time above mentioned, then the rights, privileges and powers of the said corporation under said act should be *null and void*. In the amendment to said act, approved April 6, 1838, it is provided that the time for the completion of the said rail road should be, and was thereby extended until the year 1843. It is claimed by the majority report, that the required amount of stock was subscribed, and a board of Directors were elected under the provisions of that act of incorporation, and a survey of the route of the road made, and it is also asserted "that two or more annual elections were held from the year 1838."

Granting that this state of facts exists, which the undersigned is by no means willing to admit, unless upon unequivocal testimony to that effect, it would appear that since about the year 1840 no election of directors or officers of said company has been had, that no effort has been made to continue its corporate existence, nor has the construction of said railroad been commenced by the company at any time since the passage of the act of incorporation in August 1835. The condition, then, heretofore recited, and contained in section 4 of said act, has become operative, and the question now presented by the memorial, is, whether the legislature will waive the conditions imposed by the terms of the act of incorporation, and allow this company to come forth again into life, or whether they will compel them, in common with other citizens of the state, to use such privileges as they may require under a general law, as provided for by our constitution.

The legislature has in most, if not all the acts of incorporation of rail road companies, which have been enacted at various times since our existence as a state, wisely provided, that in case the road or roads authorized to be built by the act incorporating a company for that purpose, should not be commenced within a certain period, that then all the rights, privileges, and immunities of such company should cease and be null and void; for were no such provision to exist, a body of men holding an act of incorporation for such purpose, might delay, for their own selfish ends, the construction of rail roads

which would otherwise be put in operation, and compel others to buy out their corporate privileges at enormous prices.

The undersigned deems it his duty to protest against any such action, which will, in effect, nullify so salutary a rule. There are many such acts of incorporation now remaining upon the statute books of our State, and if the precedent be once established, we thereby render nugatory that provision of the constitution which forbids the creation of any corporations, except municipal, by special acts. This is a question which addresses itself to the good sense of the legislature, and is, in the opinion of the undersigned, of far more importance than the mere legal inquiry as to the existence or non-existence, as a corporate body, of the Detroit and Maumee Rail Road Company.

Not having the advantages of a legal education, the undersigned enters with much diffidence upon the task of showing what, as it appears to him would be the legal construction of the act incorporating the Detroit and Maumee Rail Road Company, taken in connection with the facts alledged by the majority of the committee.

Art. 15, Sec. 8, of the constitution provides that "the Legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two thirds of the members elected to each house ; nor shall any such act be renewed or extended."

This language is plain and obvious to the simplest understanding, and there can be no doubt but that the intent of the framers of our constitution was forever to cut off the possibility of renewing or extending any chartered privileges, and thereby galvanizing into life the defunct and decaying corporate bodies, the acts incorporating which now so lumber up our statute books.

The evident intention of this provision appears to the undersigned to be that the Legislature may by the requisite vote, alter or amend any act of incorporation when it may be necessary or convenient for the purpose of carrying out the chartered rights and privileges already granted of existing companies, but that in no event shall they extend or renew those rights or privileges, even to existing companies, much less to those whose existence has terminated so far as Legislative enactment could effect that object.

Now, in the case of the company under consideration; if that company has by any course forfeited their chartered rights and privileges so as to render them liable to be so judicially declared, is it not in direct conflict with the article of the constitution above quoted, which forbids the *renewing* of any such chartered rights and privileges? The undersigned has no disposition to avoid or deny what he deems the well settled doctrines of our courts, that although a corporation may have done or omitted to do any act which amounts to a forfeiture or surrender of its corporate rights, privileges and franchises, yet it cannot be inquired into in any collateral action, but he insists that when any corporate body, by any act of its own, or by its neglect to do any act, has rendered itself liable to be judicially declared forfeited, it is not only against the spirit, but the very letter of the constitution for the Legislature to do any act by which that liability is removed, that it is *renewing* an act of incorporation; and for authority upon this point, the undersigned refers to the case of the People vs. the Manhattan Company, 9th, Wendell's Reports, page 351.

In 2d Kyd. on Corporations, this language is used: "That a corporation may, in point of fact, destroy itself by its own act seems as easy to be comprehended as that a natural person may put an end to his life by his own hands." So in the case of Slee vs. Bloom, 19th Johnson's Reports, page 456, it was held by the Court of Errors of New York, that the trustees of a private corporation may do what would be equivalent to a surrender of their trust by an intentional abandonment of their franchises, so as to warrant a court of justice to consider the corporation as in fact dissolved." The case of Town vs. the Bank of River Raisin, 2d Douglass Reports, page 530, maintains the same doctrine, adding further, that the dissolution must first be judicially declared.

But it is also provided by the laws of the State, (Revised Statutes, chapter 136, section 12,) that it shall be the *duty* of the Attorney General in every case of public interest, to file an information in the nature of a *quo warranto*, either upon his own relation or upon the relation of any private party against any corporate body whenever such corporation shall (among other things) offend against any of the provisions of the act or acts creating, altering or renewing such

corporations, or whenever it shall have forfeited its privileges and franchises by *non-user*.

Whenever, therefore, any corporation suffers whatever property it may possess to be sacrificed, and the trustees or directors actually relinquish their trust and omit the annual election, and do no one act, manifesting an intention to resume their corporate functions, this would in the opinion of the undersigned, be such a case of *non-user*, as would authorize the courts to declare a forfeiture of its rights and franchises; and the statute then comes in to aid in carrying out the provisions of the constitution by making it the *duty* of the Attorney General to see that such forfeiture is judicially declared.

Let us now look at the proceedings of the Detroit and Maumee Rail Road Company. Ten years have elapsed since the time limited by law for the completion of its road, during which time no election has taken place, nor has any annual meeting of the stockholders been held; the directors have entirely relinquished their trust, and the company has not done any one act, during that period, manifesting any intention of resuming their corporate functions. Recently, however, proceedings have been had by interested parties, to resuscitate this almost forgotten corporation, and it now intrudes itself into our legislative halls, for the purpose of gaining, at the hands of the legislature, some slight recognition of its existence, hoping thereby, as the undersigned cannot but believe, to avoid the fate, which surely, in his opinion, awaits it upon proceedings which it is the duty of the law officer of the State to institute against it for a forfeiture of its pretended rights and privileges.

The undersigned, therefore, cannot avoid the conclusion, that it would not only be unconstitutional, and contrary to the spirit of our existing laws, but that it would greatly endanger the best interests of the State, to pass any act, which might, in any manner, either direct or implied, restore to life, corporations, which, by the terms of their enactment, have ceased to exist; and that the spirit of the constitution, (which should be as implicitly observed as the very letter,) should, at all hazards, be maintained, giving to any and all persons the right under general laws, to incorporate themselves for the purpose of

building such roads as to them shall seem proper or necessary to be constructed.

The undersigned, therefore, respectfully recommends that the prayer of the memorialists be denied.

A. M. ARZENO,
Minority of the Judiciary Committee.

[No. 16.]

REPORT of the Select Committee, to whom has been referred the numerous petitions in favor of a law prohibiting the Manufacture of all Intoxicating Beverages and the traffic therein, like the one now in operation in the State of Maine, have had the same under consideration, and having heretofore submitted a Bill, having for its object the end sought for by the petitioners, respectfully ask leave at this time, to submit the following report:

To the President of the Senate:

SIR—That the use of intoxicating drinks as a beverage, is injurious to all, cannot be successfully denied, and that its use as such generally, throughout the State and the United States is a very great evil ; and for its continuance for a year, week or day longer, in our opinion there can be no good reason given ; and if such is the admitted fact about its use, what shall we say about the continuance of this most unholy and wicked traffic? How long shall the people of this State endure the cruel and merciless infliction of the trade of the Rum-seller for gain? It is now, we believe, an almost universally admitted fact, that the traffic in intoxicating liquors as a beverage has always, everywhere and under all circumstances, been an unmitigated curse to our race ; like a mighty incubus it rests upon all the best interests and hopes of society ; hardly a neighborhood in our beloved State, in which it has not wrought a fearful waste of property, intellect, morals, happiness, and life.

The public as well as private walks of life, give fearful evidence of the presence and progress of the destroyer. The traffic has muzzled the press ; controlled public assemblages ; demanded and received, and is still receiving protection of the laws and law-makers of the country ; polluted the sanctuary of religion ; retarded the progress of education ; corrupted the public morals ; filled our poor houses and prisons, and peopled grave yards with premature mortality. Just in proportion to the increase of the gains of this traffic,

have been the sighs and groans, and tears of wretchedness, of all within the reach of its influence. Its work is a work of wickedness, sin and death; as it flourishes and thrives, families, neighborhoods, and whole communities are clad in the habiliments of poverty, distress and mourning.

There is no occasion for us to multiply remarks about the evils of the traffic; the whole community feel and acknowledge them more fully than they can be portrayed or described; the viper's fangs have been struck deep into the very vitals of society, and the fatal virus has diffused itself through all the springs of life and happiness.

The great question to be settled is, shall the temples of Bacchus be demolished, his sacrificial altars broken down, and his fires extinguished? shall the liquor traffic be outlawed, and intoxicating liquors, wherever found for sale as a beverage, seized, confiscated, condemned and destroyed? or shall every other individual, social, commercial, educational and religious interest be prostrated? It is a fact, which no longer admits of a doubt, that we cannot be a prosperous and happy people until the distilleries and dram shops are forever banished from the State.

And was there ever in the history of this State, a more auspicious time to strike the fatal blow to the great destroyer of peace and happiness, than now? the question has been agitated and thoroughly discussed through the length and breadth of the State, and the result is that this Legislature is perfectly overwhelmed with petitions from all parts of the State, and from all classes of the people; amounting to nearly or quite one hundred thousand, all asking for the immediate and positive enactment of a prohibitory law similar to the Maine Liquor Law; and among all that vast number of petitioners, your committee are not aware that one has asked to have the law, when passed, submitted to the people for their sanction at the polls.

Your committee are aware that many of the real friends of the proposed law desire that it may be submitted to the people for their adoption or rejection; but in the opinion of your committee, such a course would not be for the best interest of the temperance cause; aside from the great doubts such a course would throw over the constitutionality of the law when adopted, it would put the people of the State to a good deal of trouble and expense, and in many cases would

undoubtedly create wrangling and strife, and all to no good end; the Constitution vest the Legislative power in the Senate and House of Rep's in all cases, with the solitary exception of a general Banking law; and the friends of the proposed bill who have asked for its passage in such a potent voice have with one accord asked the Legislature to pass the law absolute and positive; and if the law is a good one, which we believe is not seriously denied, have we a moral right, even allowing it should be constitutional, to evade a proper responsibility, try to shift it on the people and then claim we have done our duty? We think not.

Efforts have been made in this and other States to circumscribe the evils resulting from the liquor traffic, by license laws, restraining bonds, and various restraining regulating statutes. These efforts, wherever made, have signally failed; and it is worthy of remark, that in those localities where this trade of wickedness and death has been most under the surveillance of police regulations, it has committed its worst ravages.

The great monster cannot be so tamed or controlled—as well attempt to regulate a whirlwind or an earthquake by law. The traffic is an *irregularity*, and cannot therefore be regulated. It is a fungus upon society—a cancer upon the body politic, which cannot be subdued, but is aggravated by poultices, plasters, or moderate remedies, and our only hope is, the surgeon's knife, which must be vigorously and effectively applied.

But the people of Michigan have passed their solemn verdict on the license system; it has been abolished by constitutional provision, and legislatures, and courts, and magistrates, cannot longer be the body guard of intemperance. No *civil functionaries* are now located in the lurking places of our towns, villages, and cities, with commissions in their hands to destroy all that is lovely, pure, honest excellent, and of good report.

The partnership heretofore existing between liquor-sellers and the people at large has been dissolved, and cannot again be formed until the *organic law* of the State is changed. There is no alternative for *universal* license but the entire and universal prohibition—there can be no capitulation—there is no retreat. The great battle has commenced, and the freemen of Michigan must surrender at discretion

and permit ourselves and our children to be bondmen to the cruel and inexorable tyrant, King Alcohol; or we must demolish his throne; drive him from his lurking places in our midst, and expel him from our borders.

It is the inalienable right of every citizen of the State to enjoy and defend life and liberty; acquire, possess, and protect property; pursue and obtain happiness and safety, and these being asserted and acknowledged, the declaration of the highest judicial tribunal in the country is a mere axiom, a self-evident truth, that "no man has a right to introduce into a community any thing which will destroy the property, endanger the health or life, corrupt the morals; or peril the peace of the community or State." Hence, quarantine regulations; hence all those statutes to prevent or remove nuisances; to prohibit carrying deadly weapons; the pursuing of lawful trades in given localities; the sale of tainted meats and unwholesome provisions; the traffic in lottery tickets; the sale of obscene books and pictures, and various other nuisances prohibited by the laws of most of the States.

If the liquor manufacture and traffic destroy property, endanger health and life, corrupt the morals, or peril the peace, it is not only the right, but the imperative duty of government to interfere.

That this business does, under all circumstances, at all times, and every where, seriously endanger the personal security and private property of every citizen, no sane man will deny.

But is a law of prohibition constitutional?

Chief Justice Taney, of the Supreme Court of the United States, in the great Massachusetts case, "decided, if any State deems the retail and internal traffic in ardent spirits injurious to its citizens, I see nothing in the constitution to prevent it from regulating and restraining the traffic, or, *from prohibiting it altogether.*" This opinion received the hearty and expressed assent of the whole court. The right, therefore, under the constitution of the United States, of a State to pass such a law is forever put to rest.

Then, again, it is by some maintained that the law of prohibition proposed would "abridge the liberty of the citizen."

Those who advocate this measure, desire to enlarge, rather than circumscribe rational liberty. What is the thing called *liberty*, about which so much declamation is uttered? Natural liberty is defined

to be "the right which nature gives to all mankind of disposing of their persons and property after the manner they judge most consonant to their happiness, on condition of their acting within the limits of the law of nature, and that they do not, in any way, abuse it to the prejudice of other men." "Civil liberty," says Blackstone, "is that of a member of society, and is no other than natural liberty, so far restrained by human laws as is expedient for the general advantages of the public." To do what we will, is natural liberty; and to do what we will, consistently with the interest of the community to which we belong, is civil liberty.

If one claims the right to do as he pleases, every other person can assert the same claim, and in this state of universal independence, there would be so many conflicting wills, and so many obstacles in the way of their gratification, that there would really be less liberty, and infinitely less happiness, than if all were under the dominion and operation of equal laws. Hence, the laws which restrain a man's liberty often augment it, upon the principle that he gains more from the limitation of other men's freedom, than he suffers by the diminution of his own.

Political liberty is nothing more than the security with which the citizen of a government enjoys his civil liberty. Civil liberty may be enjoyed as fully under a despotic as under a republican form of government, but there is no guaranty in the former that it will be continued for a single day. We maintain:

First.—That the laws of a free people will impose no restraints upon the will of the citizen, which do not conduce in a greater degree to the public happiness.

Second.—That all restraints upon individual action, which will promote the general good of the whole State, must be made, or neither civil or political liberty are secured.

Third.—That the general happiness and prosperity of the whole people of Michigan would be greatly advanced by the entire suppression of the manufacture of and traffic in intoxicating drinks, as such suppression would result in greater security to the health, life, liberty, property, morals, reputation, and character, not of one individual or class, but of all persons of every class of society.

Fourth.—That it is absurd to declare that government is established

to secure to all the possession and enjoyment of civil liberty, and yet permit one out of every hundred to trample upon the acknowledged rights of the other ninety-nine. Such a government, by whatever name it may be called, is despotic and wrong, and should be changed or abolished.

But we are told private property is inviolate. Let us see. Every resident within the boundaries of Michigan has a constitutional right to hold, use, and enjoy, without molestation or hindrance, his own private property; but he must so hold, use, and enjoy it, as not to interfere with or embarrass others in the exercise of their equal rights. The butcher, tanner, tallow-chandler, powder-maker, chemist, and all other honest tradesmen and mechanics, may invest their money in their business, and pursue their callings under the protection of law; but in every case there is an important condition, viz: that they do not molest their neighbors. The slaughter-house, and powder magazine, must be beyond the "corporation line;" the chimney of the chemist's laboratory must be built so high that all noxious gases may be entirely removed; so of all other useful trades and occupations.

Useless, demoralizing, corrupting pursuits, are, or should be, forbidden entirely;—and no one has, or ought to have a right to invest money or property in them. Making counterfeit money, publishing obscene books, keeping of gaming houses, are entirely interdicted; and the plates and dies, books and gambling apparatus, are forfeited to the State as a part of the penalty for the offence, and to arrest the evil consequences which would be likely to result from permitting them to remain in the hands of the owner.

Is not a distillery as much the manufacture of disease as the butcher's pens, or the chemist's laboratory? Is not the grog-shop as dangerous to morals as the gaming house? Are not intoxicating drinks, themselves, more pernicious than the plates of the counterfeiter, or obscene books and pictures? If these questions are answered in the affirmative, then it follows that the distillery ought to be located where evil to the community will not result. If there is no such place in Michigan, and we contend there is not, then it must be removed beyond the "corporate limits" of the State. If the grog-shop is the unfailing source of mischief, it must be closed.

If intoxicating drinks, left in the hands of retailers, are dangerous to the peace and well being of society, they must be destroyed.

Every principle embodied in the proposed law of prohibition, confiscation, and destruction, is, and has been, from time immemorial, recognized as belonging legitimately and necessarily to organized society. The principle is novel only in its application. Unless government does possess the power to prohibit wrong-doing, and to destroy the instruments with which the wrong is done, it is an expensive and worthless piece of machinery. If government has the power in one case, it has in every case. As well may the burglar complain of the injustice of taking from him his tools necessary for house breaking, or the counterfeiter his dies and plates, on the ground that these are his *private property*, as the liquor-seller may complain of injustice and oppression in having his accursed and poisonous liquors seized and destroyed. All alike live upon the honest earnings of others, returning no equivalent therefor.

The liquor seller is the principal offender, because he sends his customers to the gaming table and the house of infamy; he inspires the midnight thief and burglar with courage, to do their work; he narrows the robber's arm, and sharpens the murderer's knife; he is the "chief of sinners," for he riots upon the health, life, character, hopes, reputation and happiness of society.

But others say, "hold liquor sellers responsible in damages." There are those who admit the magnitude of the evil and the necessity of a remedy; for instance, the friends and advocates of our present law, and who insist that the best way of redress is to render the liquor sellers responsible in damages for the injuries done. The reflecting mind will see at a glance that this plan is utterly impracticable, which it has proved on trial.

First: Because the injuries inflicted cannot be estimated by dollars and cents. The blighted hopes and crushed affections of a drunkard's wife or child, cannot be repaired by filthy lucre. Not one of the thousand wrongs can be measured by pecuniary damages.

Second: Because there is a public wrong to be provided for as well as private. The State has an interest in the physical, intellectual and moral training of every child; and how is society to be redressed for having thrown upon it criminals and beggars, and a large num-

ber of ignorant, vicious, and depraved youth of both sexes? The private injuries, terrible and desolating, and irreparable as they are, are trifles compared with the public injuries.

Third: Because, in the very nature of the case, the remedy for the wrongs of the liquor traffic must be preventive; it cannot be remunerative; such remedies are not unusual. If an infected cargo of goods arrives on our coast, no matter how intrinsically valuable, you do not wait for redress until hundreds have fallen victims to disease, and the land is filled with wailing and habitations of the dead, and then sue the captain and owners of the vessel for the damage done; but you throw the cargo overboard, and if necessary "scuttle" and sink the vessel itself, and confine the passengers and crew until they are thoroughly disinfected of the disease. You do not permit a uniscreant to peddle obscure books and pictures in a neighborhood, and when the moral poison has converted your children into abandoned libertines, ask damages at the hands of a jury; but you seize and destroy the moral infection before its seeds are spread out broadcast over the land beyond your reach. What father would shelter under his roof a notoriously vile seducer, and permit him by his wiles and arts to destroy the virtue of his loved one, comforting himself with the assurance that when the child was betrayed he would have his "remedy at law."

Fourth: Because, if the wrongs were reparable in damages, all the property of all the liquor makers and sellers in the State would not pay the damage they do in any single week of the year.

Again, it is said, "a law of prohibition cannot be enforced." It is urged that a law incorporating the features of seizure and destruction of liquor cannot be enforced. We answer, that in those States where such a law exists it is found as easy of execution as any other ever enacted on this subject. And why should it not be? No law against the traffic can ever be effective if the liquor is permitted to remain in the hands of the offender. Intoxicating drinks manufacture their own defenders, procure their own witnesses, and counsel and judge, and inspire a patriotism that it is dangerous to resist. Seize the liquor, put it on trial before it has done the work of death upon the body, intellect and heart of the citizen, and who will sweat for it, who will fight for it, in or out of court?"

The ease and certainty with which this law can be enforced, compared with all other laws on this subject, are what especially commend it to the sanction of your committee, and we hope of the Senate, and the undoubted acquiescence of the people of the State. The "civil war" it would create, as is often asserted, would be a very civil war indeed. That its execution would in some instances be partially resisted, we have no doubt; for "no rogue e'er felt the halter draw with good opinion of the law;" but this is not a sufficient reason for opposing its enactment and enforcement. If the people have a right to govern themselves, they should have the right to *protect* themselves.

There has been for years a manifest disposition on the part of politicians of all political parties and their presses, to shirk the responsibility of doing anything effectually, to satisfy the demands of the multiplied thousands who have petitioned for protection from the blighting curse of the liquor traffic. The people have waited, suffered, and endured, reluctant themselves to break their party trammels, and make this measure paramount to all others in local elections; still vainly hoping that the object could be effected without making it an issue.

The signs of the times indicate that the sovereign people of the Wolverine State will hesitate no longer, if the prayer of the one hundred thousand petitioners is not granted, if in the passage of this bill or one similar to it, which shall be effective in staying the hand of this fell destroyer; they will undoubtedly meet this question at the "polls," whatever may be the consequences to any or all of the political parties. Candidates for office will have to avow their principles on this subject and "face the music," or they will be defeated.

However protracted and severe the conflict, the friends of temperance, virtue, good order and free government, in Michigan, ask for, and mean to have, and having, will enforce a law similar in its provisions to the liquor law of Maine. The voices of thousands of the disgraced and ruined victims of the accursed traffic, call for protection at our hands, and shall it not be granted? Will not this Legislature enter upon the great and glorious work of rescuing our beloved and growing State from the blighting, bleating, man destroying, and God dishonoring liquor traffic? Will you protect the property of the citizens of our State from the onerous taxes imposed up-

on it by this plundering business? Will you protect the firesides of your people from this merciless and cruel invader, and save their and your children and friends from the wiles and temptations of those who sit in the lurking places of your "towns, villages and cities," to ensnare and murder the innocent and unsuspecting? Will you depopulate your poor houses, asylums and prisons of your State, by removing forever the cause which fills them? Will you by one vote rid your beloved State of the greatest curse that ever befel a people since the fall of Adam? If so, we then ask you to examine the proposed bill carerully, and if necessary, perfect it, and then pass it into a law, and when you return home, we trust you will be met by your constituents, with "well done thou good and faithful servants."

Pass this bill, and in the opinion of your committee, the following would be a few of the desirable, beneficial and happy results:

1st. Very few, if any, would hereafter become drunkards in our State, and many of those who now are such, would reform and be saved from a drunkard's grave.

2d. More than three fourths of the misery and wretchedness, poverty and distress, pauperism and crime would be prevented, and at least one half of all the taxes now paid would be saved to the people of the State.

3d. More money would be saved in taxes, loss of time, and consequent loss of property in one generation, than would buy each family in the State a respectable sized farm, with the necessary improvements thereon.

4th. One of the grand causes of error in principle and immorality in practice, and of all dissipation, vice and wretchedness, would be removed.

5th. The number, frequency, and severity of diseases would be greatly lessened, and the number and helplessness of maniacs in our State be exceedingly diminished.

6th. One of the greatest dangers of our children and youth, and one of the principal causes of bodily, mental and moral deterioration would be removed.

7th. One of the greatest dangers to our free institutions, to the

perpetuity of our government, and to all the blessings of civil and religious liberty would be removed.

8th. Multitudes of every generation, through all future ages, would be prevented from sinking into an untimely, unlamented, and dishonored grave; and all the blessings of temperance, peace, prosperity and happiness be augmented to an inconceivable degree in our own State, and extend a benign influence to all the other States of our glorious Union.

Your committee having briefly advanced some arguments to show that the proposed law would be right in principle, that it would be constitutional and expedient, and that it can, and would undoubtedly be carried into effect if enacted, and have also given a brief statement what in their opinion would be some of the results, if passed and carried out, most respectfully recommend the passage of the bill, and ask to be discharged from the further consideration of the subject.

All of which is respectfully submitted.

HENRY FRALICK,
CHARLES DICKEY,
JAMES W. HICKOK.

[No. 17.]

REPORT of the Select Committee on the subject of the manufacture and sale of Ardent Spirits, to whom was referred the House Bill No. 33, entitled: "A bill prohibiting the manufacture of intoxicating beverages and the traffic therein."

The Committee respectfully report, that on examining the said bill, they find that sections 18, 19, 20 and 21, provide as follows:

"Sec. 18. This law shall be submitted to the people for their adoption or rejection at the township, city or village elections first held after the passage of this act by the Legislature; and it shall be the duty of the secretary of State, and all other officers required to give or publish any notice in regard to said township, city or village elections, to give notice as required by law in cases of an election of Governor, that this act for prohibiting the manufacture of intoxicating beverages, and the traffic therein, has been duly submitted to the electors of the State at said township, city or village elections, for their rejection or adoption.

"Sec. 19. At said township, city or village elections, a ballot-box shall be kept by the several boards of inspectors thereof, for receiving the votes cast for or against said law; and on the ballots shall be written or printed, or partly written and partly printed, the words "Adoption of the law prohibiting the manufacture of intoxicating beverages, and the traffic therein. Yes;" or the "Adoption of the law prohibiting the manufacture of intoxicating beverages, and the traffic therein. No."

"Sec. 20. The canvass of the votes cast for the adoption or rejection of this law prohibiting the manufacture of intoxicating beverages, and the traffic therein, and the returns thereof shall be made by the proper canvassing officers in the same manner as now provided by

law for the canvass and returns of the votes cast at an election for Governor, as near as may be, and the returns thereof shall be made to the Secretary of State. On the first day of June, eighteen hundred and fifty-three, the Auditor General, State Treasurer and Secretary of State, shall meet at the Capitol and proceed in the presence of the Governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the Governor of the result thereof. If it shall appear that a majority of the votes cast, have thereon—"adoption of the law prohibiting the manufacture of intoxicating beverages, and the traffic therein, Yea," this act shall become a law of the State from and after the first day of October, one thousand eight hundred and fifty-three, except so much thereof as relates to submitting this law to the people for their adoption or rejection, shall take effect and become a law from and after the first day of April next; but if a majority of the votes cast upon the question, have thereon "adoption of the law prohibiting the manufacture of intoxicating beverages and the traffic therein, No," this act shall be null and void.

"Sec. 21. All acts or parts of acts contravening the provisions of this act are hereby repealed."

It will be seen that section 18 provides for its submission to the people for their adoption or rejection at the township, city or village elections first held after the passage of this act; and also provides for giving the proper notices &c. Section 19, provides for the manner of voting on the law, and section 20 provides for the return and canvass of the votes, and requires returns of the votes to be made to the Secretary of State on the first day of June 1853, and also provides, on condition that the law is adopted by the people, it shall go into effect the first day of October, 1853, except so much thereof as relates to submitting this law to the people for their adoption or rejection, shall take effect and become a law from and after the first day of April next. Now it will be seen that no part of this law is to take effect before the first day of April next, and yet the provision in section 18 requires the legal notice to be given by the proper officers, and the towns, cities and villages are required to vote on the law by its own provisions, on the first election held after the passage of this act.

Detroit will hold their first election on the first Wednesday in March, and the other towns on the first Monday of April. Now the election in Detroit will be held before any part of this act goes into effect, and yet this act proposes to have them vote on it without there being any legal manner provided for so doing, and the towns are also required to vote on it on the first Monday of April; and under the provisions of this act, there is no possible way to give the legal notice, and the Constitution requires that no law shall go into effect until ninety days after the adjournment of the Legislature which passed it unless ordered to go into immediate effect by a two-third vote, and your committee have no evidence that any such order was made in reference to the bill. And for these and for other reasons your committee might enumerate, they are of opinion that the bill, if passed as it came from the House, would be perfectly nugatory and void, as it involves legal impossibilities, and if so passed must remain a dead letter on our statute book. And your committee are of opinion further, that the bill should be passed to a law by the Legislature, and without any submission to the people. The Constitution, article 4, section 1, reads, "The Legislative power is vested in a Senate and House of Representatives;" and the Constitution makes no provision for the submission of any laws to the people for their adoption or rejection, except a general banking law, for which there is a special provision; and for various other reasons which might be enumerated, aside from a Constitutional objection, your committee are of opinion this bill should not be so submitted, but passed like all other general laws, and herewith submit a substitute for sections 18, 19, and 20, of said bill, and respectfully ask the concurrence of the Senate therein, and ask to be discharged from the further consideration of the subject.

H. FRALICK,
Chairman Select Committee.

[illegible]

[, No. 18.]

REPORT of the Committee on Public Lands on resolution to inquire into the expediency of granting the swamp lands to the several counties.

The committee on Public Lands, to whom was referred a resolution, adopted on the 31st ult., in the following words:

Resolved, That the committee on public lands be instructed to inquire into the expediency of granting to the several counties, the swamp lands granted to this State by Congress; the counties, after complying with the grant relative to draining them, to have the avails over and above the expenses of draining, for the support of schools, and that they have leave to report by bill or otherwise, have had the same under consideration, and report:

That after a careful examination of the subject, they are of the opinion that all the swamp lands acquired by the State by virtue of the act of Congress, entitled, "an act to enable the State of Arkansas and other States to re-claim the swamp lands within their limits," approved September 28, 1850, should be appropriated, subject to the conditions of said grant, with reference to re-claiming and drainage, in the following manner:

To each township or fractional township as defined by the United States' survey, all the "swamp lands" situated and lying in such township, whole or fractional; to be under the management and control of the board of supervisors of the county in which such township and lands are situated, or to which they may be attached for judicial purposes, to the end that the proceeds of the sales of said lands, may be most judiciously applied to "draining and re-claiming the swamp and overflowed lands," as contemplated by Congress, in the townships respectively.

The surplus arising from the sales, after payment of the cost of draining and reclaiming, should, in the opinion of the committee, be

applied from time to time, by the boards of supervisors, on the application of twelve free-holders of the township, to the following purposes: the construction or improvement of highways; the building of school houses, or the purchase of township libraries, as may be deemed for the best interest of the township, by said board of supervisors.

Such a disposal of these lands, your committee believe to be the most proper and judicious. While the old and wealthy counties would realize, in this manner, a handsome endowment for township libraries, the new and less favored counties would receive, although but partially, that consideration and justice so long delayed and withheld. It is in the new counties that most of the swamps and overflowed lands are situated, whose inhabitants have borne the burthen of taxation in all its forms, while these lands, in their immediate vicinity, instead of sharing and dividing the burthen, have only yielded their pestilential odors, rife with fever and ague, to prostrate the strong arm of the pioneer, striving to subdue the forests and convert them into smiling fields. Such a disposition of these lands would inspire the settlers in new counties with new energy, and give them the just proof, in the course of legislation, that their rights and interests are respected and cared for.

D. B. HARRINGTON,

Chairman.

[No. 19.]

REPORT of the Committee on Education, relative to the establishment of a Chair of Homeopathy in the University of Michigan, and the appointment of a Professor thereto.

The Committee on Education, to which was referred sundry petitions praying for the establishment of a chair of Homeopathy in the University of Michigan, and the appointment by the Regents, of a Professor thereto, beg leave very briefly, and respectfully, to report adversely to the prayer of said petitioners, and for the following reasons:

1st. The receipts from the University fund are insufficient to meet the present wants of that institution; while a number of the professorships already established, have still vacant chairs. This would, in the opinion of your committee, be a sufficient answer to the petitioners. But, in the expectation that some additional reasons may be looked for, we will proceed to say further:

2d. That the practice of medicine, like many things else, is, and ever must be, while fallibility attaches to human intellect and human conduct, imperfect; divided into sects and schools, and systems. We have, and will continue to have, the Homeopathist with his "similia similibus;" his globules, and his ten thousandth attenuations. The Hydropathist, with his wet blanket and bucket of water. The Allopathist, with his lancet, his potion and his pill; the Eclectic, selecting as he says, from all the best parts of every system; the Botanic, in his various stripes and grades, with pepper and pop gun and lebelia; the Urucopist, with jug and vial, and microscope; the Magnetist, with his circular passes, and the laying on of hands. And the thousand and one other systems and sects, and subdivisions, into which medical men, and those claiming to be medical men, have divided themselves.

And now, in view of this, what shall be done? If a Professorship is established for one of these sects, then why not for all? Surely no reason can be given. And we therefore say—establish Professorships for none. Let those fundamental sciences which lie at the root of all true medical knowledge, and which are necessary for the successful practice of any particular school of medicine, be fully taught. Let the History of disease, and its treatment in any and every form, be given, so far as it is possible to give, and leave the student to assume what name he chooses among the various schools of medicine, or as the great mass of educated physicians do, be content to be simply called a physician, and let it go at that.

We oppose, therefore, the establishment of a chair of Homeopathy, Allopathy, or any other pathy, and believe, that in filling the chair of the theory and practice of physic, diseases of women and children, or in fact any of the other chairs, in the University, the Regents have full power and authority vested in them by law, to fill those Professorships with any persons who in their judgment they may deem qualified by education and otherwise, to fill them with honor and profit to the State.

If these chairs are not filled with Homeopaths, (and your committee are not aware whether they are or not,) then we fancy it is not the fault of the laws on this subject, for these, in conformity with the genius of our institution, open to all classes and conditions of men a fair and honorable field of competition.

Your committee are of the opinion, therefore, that it would be impracticable to establish chairs of the different schools of medicine, and that if practicable, it would lead to endless disputes and discussions on mere matters of theoretical speculation; and if not advisable or practicable to establish chairs of all the different schools, it would certainly be invidious to select out one, and give preference to that to the exclusion of all others.

But it may be said by some, perhaps, that this very thing is done by selecting allopathists to fill the chair of theory and practice. Let it be remarked here, however, that a Homeopathist may just as well be selected as an Allopathist to fill this chair. It is not a chair of Allopathy; it is a chair of "the theory and practice of medicine," and if the Regents of the University believe that a Homeopathic Physician

can best fill that chair, they will doubtlessly appoint one to fill it. It remains then for Homoeopaths to show that their system is the best, because the most successful, and that their practitioners are men of education and science.

Your committee are of opinion that it would not be difficult to show that there are many crudities and absurdities in this same system of Homoeopathy; that the great and leading doctrine, to wit: that diseases are to be cured by the use of remedies, that when used in a state of health, would produce a like disease, is to be taken with very great limitations; that in fact, instead of being a rule general in its application, it is but the exception.

Who, for instance, would think of giving brandy for inflammation of the stomach, or aloes to cure dysentery? Who would give lobelia or tobacco for great prostration? And yet, this is the effect produced by these articles on the system in a state of health. The absurdity of the doctrine of infinitesimal division, and doses of the size of the one thousandth part of a grain, and that too, of a substance nearly inert, even in large doses, is so apparent as to only need a mention, to be seen and realized.

But into the merits of this system it is no part of the design of your committee to enter. That, as well as the qualifications of those professing to believe the system, is left to the Board of Regents, when application may be made, or occasion had to fill any of the chairs in the medical department of the University. Should the Board see that this system of medicine was *the system* par excellence; that it was founded in truth, and commended itself to the judgment of men; that its professors were men of science and education, with minds well filled from the vast store-house of medical lore; then they would be selected to teach this system and these doctrines, because they were true, and for the best interests of mankind. Again, by the revised constitution of the State, the Board of Regents are empowered with "the general supervision of the University, and the direction and control of all expenditures from the University interest fund." This fund it will be recollected was created by grant from the General Government, and is placed under the control of said Board of Regents, which is to act as a trustee for this important fund.

It becomes, therefore, a matter of serious question, whether the State through her Legislature, can direct as to how this fund shall be expended, or whether she can, if she should so desire, direct the establishment of any Professorships in the University, independent of the said Board of Regents.

Your committee are clearly of opinion that the whole matter is "under the control of the said Board," and that it is unwise for the Legislature at this time to seek to interfere in the premises.

REMONSTRANCE of the First Presbyterian Church, of the city of Detroit, against division of the School Fund.*To the Honorable the Senate**and House of Representatives of the State of Michigan:*

The memorial of the Elders and Deacons of the First Presbyterian Church, in the city of Detroit, respectfully shows : That we have received credible information and do verily believe, that a project is entertained by the Romish priesthood in this State, acting doubtless, in obedience to the commands or suggestions of a foreign despotic sovereign, the object and interest whereof are none other but the subversion of the free system of schools which prevails in our State; that we have also evidence satisfactory to our minds that this Jesuitical enterprise, now carefully and insidiously veiled under the pretense that that time-honored system, in its operation, violates the rights of conscience, engages the particular attention and the unceasing labors of the Romish Clergy throughout the United States. Indeed, so plain have the workings of the system made it, that the tenets and discipline of that ambitious sect are at open war with all the ideas upon which our Republican government is based; that the managers of that sect have found it necessary to direct their attacks at the very citadel of Republican strength,—the free education of youth and the consequent independence of mind ; that our existing system of education is obnoxious to the charge which papists bring against it, of being an infringement of the rights of conscience, is utterly disproved, not only by the practice which prevails under it, but by the very letter of our constitution and laws; and we beg to remark, that this unfounded and unsustainable accusation comes with no very attractive grace from men who openly avow it as one of their objects, (with them undoubtedly a *minor* object,) to teach, as a branch of education, the peculiar religious tenets of their sect, to the utter exclusion of all others as unscriptural

and damning heresies, and to compel those who do not believe them, who reject them and all the despotic principles rooted in and inseparable from them, to pay their money in the form of taxes to support such teaching.

We would, in speaking upon so grave a subject, be mindful of the command that we are not to smite the smiter, but to turn to him the other cheek; yet, from what little knowledge we have been able to gather of the American character, we are somewhat inclined to the belief, that, whatever might be our own course, there are among us divers persons, of sects other than Roman Catholic, and citizens not belonging to any sect, who will not, with any very submissive temper, consent to pay their hard earned moneys for the propagation of the Roman Catholic faith;—a faith that anathematizes every human being who does not without dispute or inquiry accept it, and which, in those countries where it has the political power, industriously banishes the bible from the family, forbids all other worship, and all other opinions, under heavy penalties, and affects to look down with the haughtiness of infallibility, and the air of absolute mastery upon the rest of mankind; a faith, the history of whose rise and progress in the world is too dreadful to be taken for an example rather than a warning.

Your memorialists hold it to be the high duty of every republican state to provide, by general and efficient laws, for the instruction of all its youth in those elements of learning which are requisite to fit them for business, for an understanding of their rights and a just appreciation of their liberties; what those rights and liberties are, how they are to be maintained in despite of all the arts and powers of despotism, whether political or mental; and how they differ from and transcend in value, glory, and righteousness, the meager privileges which are enjoyed by the subjects of Roman Catholic kings, or other sovereigns, if there be any. As long as this duty shall be vigorously performed, we need have no fear of the enactment of laws that violate the rights of conscience; and the false clamor which is now making itself heard, will die away for want of voices to propagate it. If, however, your honorable bodies shall, as we believe you never will, be of the opinion that the school fund of the State shall be divided and apportioned as the Catholic priests claim, we beg

that your enactments may take such a shape as shall secure its proper share to each sect; and particularly to the Presbyterian sect, the enjoyment, by presbyterians, for the purpose of teaching presbyterianism to presbyterian children, of all the school taxes levied on the lands, houses, goods, and chattels of presbyterian owners, or those who favor our good old presbyterian faith and discipline. We beg to say, that if this shall be done, the church and congregation to which we belong, will not, as to the means of educating our children, be the losers, but gainers the rather; in as much as by the blessing of a kind Providence, we have of such worldly goods the amount of about three millions of dollars; our children not having increased in quite the same ratio as Providence hath seen fit to increase our store. And we have also reason to believe, that, in this regard, our own case does not differ greatly from that of our Protestant brethren of other denominations, who would all doubtless be gainers in respect to the means of educating their children by *such* a division of the school fund. But we take leave to say, in conclusion, that whatever imaginary advantages might flow from such a division of our public moneys, we are quite willing to forego them, for the immensely higher advantage of maintaining our excellent school system as it is, and frowning upon any attempt, come from whatever quarter it may, to force the power and patronage of the State into any alliance with sectarian opinion. Your memorialists, therefore, respectfully remonstrate against the adoption of the scheme now pressed upon your attention by the Romish priests, or any scheme which shall lead to a similar result.

E. P. HASTINGS,
E. BINGHAM,
J. KEARSLEY,
H. HALLOCK,
DAVID FRENCH,
ALEXANDER McFARREN,
A. SHELEY.

Detroit, January 27, 1853.

[No. 21.]

COMMUNICATION from the Secretary of State transmitting Abstract of the Reports of the Superintendents of the Poor for the several Counties in the State of Michigan, for the year 1852.

OFFICE OF THE SECRETARY OF STATE, }
Lansing, January 11, 1853. }

HON. ANDREW PARSONS, *President of the Senate:*

SIR—I have the honor to transmit herewith to the Legislature, an abstract of the reports of the Superintendents of the Poor, for the several counties in the State of Michigan, for the year 1852, as received at this office.

I am sir, very respectfully,

Your obedient servant,

WILLIAM GRAVES,

Secretary of State.

**ABSTRACT of the Reports of the Superintendents of the Poor for
the several Counties in the State of Michigan, for the year 1852.**

COUNTIES.	Number of persons relieved or supported during the year.	Whole expense of such support.	Am't paid for transportation of poor.	Amount paid for other items which do not constitute any part of the actual expense of maintaining the poor.	Amount paid to Superintendents of Poor.	Amount paid to Directors of Poor.	Amount paid to Justices of the Peace.	Amount paid to Keepers and Officers.	Actual value of the labor of the poor maintained.	Estimated amount saved in the expense of their support by their labor.
Allegan...	22	\$575 00	\$.....	\$.....	\$32 35	\$.....	\$.....	\$.....	\$.....	\$.....
Barry	14	233 00	.....	47 49	.....	.....	.....	.....	.....	.....
Berrien	64	700 00	36 00	807 00	26 50	.....	.....	300 00	44 00	44 00
Branch	68	1,376 34	8 00	.....	63 64	17 00	4 50	.....	.....	.....
Calhoun	121	2,738 61	24 75	839 81	178 16	16 88	.....	400 00	50 00	50 00
Cass	27	984 51	22 30	.....	.....	3 75	1 00	200 00	.....	.....
Chippewa *	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clinton	21	451 98	.....	.....	62 25	11 00	5 00	.....	.....	.....
Eaton	1	29 50	.....	10 00	14 25	.....	.....	.....	.....	.....
Genesee	22	722 78	.....	.....	40 00	.....	1 50	.....	.....	.....
Hillsdale	34	1,011 77	20 00	100 00	75 00	.....	.....	240 00	.....	.....
Houghton *	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ingham	16	1,005 36	7 50	200 00	95 36	15 25	3 50	184 00	.....	.....
Ionia	19	527 01	16 00	.....	44 08	7 50	.....	.....	.....	.....
Jackson	50	1,462 51	25 00	75 00	150 00	50 00	5 00	646 52	.....	.....
Kalamazoo	27	1,185 68	.....	119 00	55 70	13 50	.....	267 00	.....	75 00
Kent .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lapeer	25	439 66	.....	.....	47 00	.....	3 75	35 38	.....	.....
Lenawee	46	1,403 00	60 00	55 00	78 00	39 50	21 75	325 00	20 00	.....
Livingston	30	869 14	16 00	.....	57 00	10 50	6 00	694 00	.....	.....
Mackinac *	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Macomb	57	947 75	17 00	114 35	93 23	80 86	13 91	347 57	.....	.....
Monroe	83	1,214 66	13 50	114 91	70 50	50 33	2 00	331 25	50 00	.....
Montcalm *	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Oakland	44	820 34	33 73	87 26	73 74	111 01	49 60	300 00	.....	.....
Ottawa *	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Saginaw .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Shiawassee	9	531 10	2 10	52 52	34 72	4 50	3 00	.....	.....	.....
St. Clair .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
St. Joseph *	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sanilac .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Tuscola .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Van Buren	26	381 39	.....	19 81	28 52	2 00	1 00	.....	.....	.....
Washtenaw	188	2,607 93	73 22	5 33	151 41	79 56	19 00	602 00	252 00	.....
Wayne	325	1,715 81	125 24	683 10	182 00	123 50	53 25	434 36	130 00	130 00
Total	1339	\$23,964 83	500 34	3330 58	1,673 41	636 64	193 76	5,307 08	546 00	\$299 00

*No returns.

[No. 1.]

COMMUNICATION from the Auditor General relative to settlement with the Agent of State Prison.

AUDITOR GENERAL'S OFFICE, }
Lansing, Jan. 5, 1852. }

To the Legislature of the State of Michigan:

As required by section 39, chapter 172, I have examined the accounts of the Agent of the State Prison, and find them correct, as appears from the books of this office. The report of the Agent is herewith transmitted.

JOHN SWEGLES,
Auditor General.

W. C. Pease, Agent State Prison, in account with State of Michigan.
1852. DR.

Nov. 30th. To cash on hand per last annual
report,.....

\$179 83

"	Received in Dec. 1851,	\$811 65
"	" Jan. 1852,	345 13
"	" Feb. "	1,739 72
"	" March "	1,698 97
"	" April "	1,327 26
"	" May "	1,275 24
"	" June "	2,888 57
"	" July "	1,263 48
"	" Aug. "	1,420 81
"	" Sept. "	2,013 26

To cash received	Oct. 1852,	2,525 05	
" "	Nov. "	6,811 11	
			24,119 35
			<u>24,317 18</u>

CR.

By cash expended in Dec. 1851,	\$653 18	
" " Jan. 1852,	607 94	
" " Feb. "	1,310 34	
" " March "	2,148 03	
" " April "	1,253 11	
" " May "	1,127 43	
" " June "	2,744 38	
" " July "	1,261 44	
" " Aug. "	1,133 37	
" " Sept. "	2,784 94	
" " Oct. "	1,893 00	
" " Nov. "	7,372 68	
		24,239 84
Cash on hand Nov. 30, 1852,		<u>\$77 34</u>

Inventory of the goods, materials, and moveable property belonging to the State, and on hand November 30, 1852.

In the Office—1 stove and pipe, 1 iron safe, 1 writing desk, 3 tables, 3 book and paper cases, 6 office chairs, Revised Statutes of 1837 and 1846, and the session laws and legislative documents, Inspectors and office records, 2 candlesticks, floor oil cloth, calender, 1 clock, and 3 sets calico window curtains.

In the Library Room—1 stove and pipe, 1 table, library case with drawers, about 600 volumes of books, and 2 chairs.

In the Guard's Room and Armory—13 muskets, 8 carbines, 2 revolving and 4 common pistols, 4 powder flasks, 1 powder canister, a small quantity of ammunition, 1 stove and pipe, 1 table, 1 clock, and 1 lamp.

In the Prison Building—4 large stoves and pipe, tables, benches, knives and forks, spoons, tin plates and cups, bunks, bed and bedding, night buckets, clothing sufficient to accommodate 212 convicts, 2 water barrels, 1 large tin oil can, 10 lamps.

In the Hospital Department—1 case of surgical instruments, 1 dispensatory, and a small supply of medicine and hospital stores.

In the Chapel—Chaplain's desk and 5 others for officers and guards, benches for seating 250 persons, and one stove and pipe.

In the Barber and Tailor Shop—1 stove and pipe, 1 table, razor case and about 15 razors, 1 looking glass, 1 comb and brush, 1 wash stand and basin, and a few old towels, one tailors bench, and 3 sets tailoring tools.

In the State Shop—1 stove and pipe, 1 grind stone, 3 work benches, 2 bench screws, 2 broad axes, 1 hand axe, 1 adz, 1 tool chest, and part of 3 sets joiner tools, 500 feet of lumber.

In the Store Room and Yard—4 shovels, 2 pecks, 3 iron bars, 3 buck saws, 1 saw buck, 6 hoes, 4 old wheelbarrows, 1 hand cart, 4 narrow axes, part of set quarrying and stone cutting tools, 3 pairs hand cuffs, 8 pairs shackles, and 5 balls and chains, 2 sets table blocks, and fall and gang ropes for one, 1 gin and geering, 20 perch rough stone, 20 cords wood, 7 M shingles, 1 log chain, 1 beetle and 2 wedges, 2 iron teeth rakes, 6 hods and 8 mortar boards, platform scales.

In the Kitchen—5 cauldron kettles, 1 cistern pump and pipe, 2 sinks and 1 wash basin, 2 tables, 1 kneading trough, 1 large copper wire seive, 4 tubs, 2 baskets and 2 do for bread, 1 meal and flour chest, 1 cupboard, 4 tin coffee cans, 11 patent pails, 16 baking pans.

In the Wash House—2 wash tubs, 1 clothes chest, 3 cauldron kettles, 2 barrels.

In the Agent's House—1 cook stove, furniture and pipe, and 5 parlor and chamber stoves, with pipe to each, 1 cherry dining and 2 small tables, and 1 kitchen table, 1 sink, 2 white wood dressers, 2 do wash stands, 1 do bureau, and 1 cherry book case, (not quite finished,) 1 common bedstead, 1 wardrobe, 1 cupboard, 1 small bell, 1 oil cloth for principal hall, carpets for front and back parlors, and stair carpet and cover-ing and rods for same.

In the Old House—1 pair large fire dogs, and 1 old cook stove and part set furniture, and 1 old cupboard.

Outside Prison Yards—1 horse, 1 buggy, 1 lumber waggon, and double harness, 1 horse cart and harness, 1 pitch fork, scythe and snath, 4 saddles, and about one ton hay.

STATE OF MICHIGAN, }
County of Jackson, } ss.

William C. Pease, Agent of the Michigan State Prison, and Giles Bloomfield, Clerk thereof, being duly sworn, depose and say that the foregoing account current and inventory are in every respect true, according to their understanding, knowledge and belief.

WM. C. PEASE,
G. BLOOMFIELD.

Subscribed and sworn to before me, December 13th, 1852.

H. H. BINGHAM,
Notary Public.

STATE PRISON OFFICE, }
Jackson, Dec. 13, 1852. }

HON. JOHN SWEGLES, *Auditor General*:

DEAR SIR—The foregoing comprises an account of all moneys received and disbursed by me, during the year ending Nov. 30th 1852, for and on account of the Prison, and an inventory of all goods, materials, and moveable property belonging to the State, and now on hand. All which I respectfully submit.

WM. C. PEASE, *Agent.*

[No. 2.]

REPORT of the Judiciary Committee, relative to the powers of the
Legislature to amend existing Charters.*To the Speaker of the House:*

SER—The committee on the Judiciary, to whom was referred so much of the Governor's message as relates to the power of the Legislature, under the constitution, to amend existing charters, have given to the subject the most mature deliberation, the limited time at their command would permit, and their conclusions the committee now beg leave to submit to the House, and ask to be discharged from the further consideration of the subject:

By section 1 of article 15 of the constitution, it is provided that corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes.

The manifest object of this provision is to prohibit the creation of special corporations by special legislation, to relieve the Legislature from the necessity of legislating for private and individual corporations, to economize its time, and enable it to discharge its duties to the public within the period fixed for its sessions, viz: forty days once in two years. Indeed, a provision of this kind became absolutely necessary, when the Convention determined that sound policy required that change in the constitution relative to the times of sitting and the length of the sessions of the legislative bodies. Most of the time, even when the sessions were annual, and for three or four months in each year, was engrossed in creating corporations in one form or another. A change relative to the sessions of the Legislature, therefore, necessarily involved a change in the mode of creating corporations, if the affairs of the State were to receive due con-

sideration at the hands of the law making power; hence this provision was inserted in the constitution.

The object of the provision is very apparent; the simple question is, whether it is accomplished if it be now competent for the Legislature to amend existing charters and confer upon them powers, which it was not intended originally that they should possess, but which would be very proper for other corporations to have and use; whether in fact the evil would not be as great under the new form of legislation, if it be constitutional, as under the old one, and whether it would not lead to a result which the Convention could never have contemplated, and which every one who regards the real welfare of the State would exceedingly regret to see produced? If, for instance, and your committee refer to them by way of illustration only, and because they are before the Legislature for amendments of their respective charters, the Michigan Central, and the Michigan Southern Railroad Companies, can, by a special act, be authorized to construct a railroad from Detroit to the State line, in the direction of Toledo, will it not occupy as much time, and occasion as much trouble to the two Houses, as if an independent company should apply for a special charter to construct such a road upon the same route? Nay, would it not probably occupy much more time, to determine between rival companies thus seeking legislation, than it would to pass upon the application of an independent company, having no connection with either?

Would it not also be equivalent to creating a new corporation to all intents and purposes, and vesting its powers in a set of men who happen already to have the advantage of all others, by being organized into corporate bodies before the constitution was adopted? Besides, if those companies may be authorized to construct a road over that route, why may they not apply to the Legislature from time to time for authority to extend roads into other parts of the State, as for instance, over, or parallel with routes now occupied by other companies, or elsewhere? The same remarks may apply to other existing corporations, and there might, and probably would be as many applications for special legislation for existing corporations, and the time of the Legislature might be quite as much occupied, as it would have been under the former constitution, and the salutary results

which the framers of the present one intended to effect, would be wholly defeated. This legislation, if constitutional, would lead to consequences which certainly the convention could never have contemplated, as the fruit of their labors, or they would most surely have guarded against them. If such new powers can be conferred upon existing corporations, then those bodies become a privileged class of persons, for whom alone the Legislature can specially legislate. It may confer upon them, (most of them too, citizens of other States,) by special acts, important powers and valuable rights, which our own citizens cannot, in the same mode receive at the hands of the Legislature. They may gradually and by repeated amendments obtain control of every valuable route for a rail road in the State, and thus acquire a power and influence which could never have been designed by the framers of our organic law, and with large capitals at command, and with routes yielding large revenues, even should it be deemed expedient to pass a general law, yet by additional power conferred from time to time, they might usurp the routes of other companies, and gradually monopolise the business of the State. The policy and spirit and object of the constitution would be evaded and entirely defeated; and in addition to that, it would be productive of evils far greater, in the judgement of your committee, than would have been felt, had the article we are considering never have had a place in the constitution.

There is still another view of this question to be taken, which, in the opinion of the committee, is equally, and perhaps more conclusive, in favor of this construction, than any we have adverted to.

If amendments are admissible, under that instrument, to confer these new and additional powers, in one form, they are equally so to confer them in any other form. It has happened in several instances in the history of the legislation of this State, that rail road companies have been authorized by amendments of their charter to establish banks, and in one instance certainly—the Michigan Insurance Company at Detroit—an insurance company has been converted into a banking institution. This species of amendment is no where in express terms prohibited in the present constitution any more than are amendments conferring new powers for other purposes, which are alien and different from the original grant of power, and for other and additional

objects ; and yet no man who reads the constitution, can, for one moment, doubt that any amendment conferring banking powers upon either a rail road or insurance company, would be in direct contravention of the whole scope and spirit of that instrument, and that if it can be done, that that instrument will be, in some of its most important objects, as effectually and utterly defeated as if it were of no binding force or efficacy whatever.

These views of the question seem so clear, that your committee deem it unnecessary to dwell upon them longer. They have as little doubt of the power of the Legislature to amend existing charters in some particulars, as they have that it is not in their power to amend them by conferring upon them powers not within the scope of the original act creating the corporations. In all things which may be necessary to enable them to effect the objects, to carry out the purposes for which they were created, unquestionably, amendments may be made, so as to remove any obstacles that obstruct their way. The right to contract debts, mortgage their property and franchises, change the line of roads when such change shall not involve the creation of new powers, but simply enable a corporation to construct their road between the points of termination fixed by the Legislature in the original act—all these, and similar matters are as clearly *within* the power and control of the Legislature as those first alluded to are *without* them. And such your committee believe to be the amendments contemplated by section 8 of article 15 of the constitution.

All which is respectfully submitted.

E. RANSOM,
Chairman.

[No. 3.]

PETITION of Samuel A. McCoskry, Bishop of the Protestant Episcopal Church in the Diocese of Michigan, relative to a division of the School Funds of this State.

To the Honorable the Senate and House of Representatives of the State of Michigan:

The undersigned is the Bishop of the Protestant Episcopal Church in the Diocese of Michigan: He has learned from the public newspapers, and from petitions about to be presented to your Honorable bodies, that an application is to be made for such a division of the school fund of this State, so that "in all cases the parent be left free to choose the teacher to whom he will entrust the education of his child." Such an application (if granted) he considers as giving the right not only to parents, but to every religious body, to select teachers who will teach the peculiarities of the religious views or opinions they may hold. It will place the whole school fund of this State in the hands of religious bodies or sects, and entrust to them the education of the children of the State; for the right, if given to one, will be claimed by each and by all. Whatever opinion the undersigned may entertain in reference to the system and effects of common school education, he begs leave to say, that he has no wish or desire to interfere with, or in any way alter, or abridge the system which has been the pride of this State, and which has furnished to so many thousands of her children the means of obtaining a high secular education; nor does he wish that the fund so generously granted to the people of this State, and so carefully guarded by her Legislatures, and so highly prized by her citizens, should be used for the promotion of sectarian strife and bitterness.

It is one of the distinguishing features of our free institutions, and which lies at the foundation of the happiness and freedom of the people, that neither religious tests, nor religious preferences form any

part of our legislation. All religious bodies are placed on precisely the same footing, and whatever may be the exclusive claims of each and of all, they can only be settled by an appeal to a higher and different authority than State Legislatures. But if your honorable bodies see fit to overturn and destroy that system which has been heretofore so carefully guarded, and which has introduced into every occupation and profession, some of the most distinguished men of the State, and which has brought to the door of the poor man the means of educating his children ; and if the priests and clergymen of every religious body are to take the place of the common school teacher, and the State is to assume the duty, through them, of extending and building up religious differences, and of fomenting strife and contention, then the undersigned (most reluctantly) would claim to have a share in this work. If then such a change is to be made in our common school law, so as to allow parents to choose teachers for their children, the undersigned would respectfully ask for his proportion of the common school fund, so that the people entrusted to his spiritual oversight may employ such teachers as will fully carry out their religious preferences. He would freely and frankly state to your honorable bodies that the amount thus granted, shall be carefully used in teaching the principles and doctrines of the Protestant Episcopal Church, and that the services of as many clergymen and laymen of the Church shall be secured and used, so that no other principles and doctrines shall find any place in the different schools.

SAMUEL A. McCOSKRY,

Bishop of the Protestant Episcopal Church in the Diocese of Mich.
Detroit, Jan. 19, 1852.

[No. 4.]

MEMORIAL of the Board of Education.

To the Legislature of the State of Michigan:

The State Board of Education respectfully represent to your Honorable Body, that soon after the passage of the acts creating a State Normal School, and endowing the same with twenty-five sections of salt spring lands, they proceeded to the selection of such lands. That of the land so selected, twelve sections were in Wayne and Macomb counties; four in the former, and eight in the latter. They proposed to the principal places in the State to offer a consideration for the location of such school, and for that purpose advertised for proposals therefor, and on opening and examining the several proposals made in pursuance of such advertisement, they awarded the location of the Normal School at the village of Ypsilanti, in consideration of the sum of \$14,400 in notes, subscriptions and land, from which the Board realized the sum of \$13,500, and expended the same towards the erection of the Normal School building, drawing the residue of its cost from the Normal School fund. That the large amount furnished by the citizens of Ypsilanti and its vicinity, was contributed upon the representation of the Board of Education that the lands selected were worth \$140,000, and that the sale of a large portion would soon be effected; and upon the further consideration, that an agricultural department would be maintained in said school.

These representations have not been realized, for the reason, that it was afterwards ascertained, that the lands selected in Wayne and Macomb, did not belong to the State, and had been long sold by the General Government.

This error has led to the selection of other lands, which cannot be made immediately available ; nor can they in many years be sold for more than about one third the value of the lands first selected. This necessary change has reduced the Normal School fund not less than forty thousand dollars, leaving the endowment of the Normal School about seventy thousand dollars less than the same estimated, at the time of payment made for the location of the school.

The lands selected are all in one township, in the County of St. Clair, removed from all thoroughfares, and having four other sections of trust lands in the same township. This loss to the fund has occurred from the error of the State and the General Government, by the State in not noticing the error of the General Government, and by the General Government in correcting their own mistakes. It is a loss disastrous to the just expectations of those who contributed so liberally to the erection of the Normal School building, and deprives the institution of the means which are necessary to a successful organization.

The people of Ypsilanti and vicinity had a right to and undoubtedly did expect an institution having an endowment of one hundred and forty thousand dollars. This was also the reasonable expectation of the Board, and all their arrangements were made with the certainty that they would have the means to maintain an institution such as was contemplated by the act making the endowment, and creating the Board of Education, and that could, with proper exertion, be made in all its departments, an honor to the State. By the loss of the twelve sections first selected, the endowment fund will never exceed the sum of seventy thousand dollars, and will not, after deducting expense of building and fixtures, exceed sixty thousand dollars.

Under existing circumstances these expectations cannot now be realized, because the Board find themselves without the adequate means for the organization of the School, and but for the loss of the twelve sections the Board would not only have put in successful operation a Normal School, but the Board had intended, and would have successfully carried out all the mandates of their charter, by which they were commanded to give instruction "in the art of teach-

ing, in all the various branches that pertain to a good common school education," and "in the mechanic arts, and in the arts of husbandry and agricultural chemistry, in the fundamental laws of the United States, and in what regards the rights and duties of citizens;" and it was a wise provision, for from no other place can this knowledge be so economically disseminated and so universally diffused.

Students who attend here for instruction will come up from, return to, and mingle with the masses of the community, and impart to them of the treasures thus acquired. The Board are so deeply impressed with the importance, and even the necessity of the universal diffusion of agricultural knowledge, that they would consider themselves derelict of duty if they did not use every reasonable exertion to carry out the full design of their charter in respect to instruction in agriculture.

They therefore feel themselves constrained to appeal to your honorable bodies for aid. They consider this due to those who have so generously contributed their means in behalf of this school, as well as to the agricultural portion of our State who have hitherto been overlooked by the State in its appropriations for educational purposes, in violation of that provision of the constitution which makes it the duty of the legislature to encourage the promotion of agricultural improvement.

The Board respectfully present the following estimate of the necessary annual expense for the successful prosecution of the design of the State in establishing the Normal School:

Principal.....	\$1,080 00
First Teacher.....	500 00
Second do	500 00
Third do	400 00
Music do	400 00
Janitor.....	250 00
Wood.....	100 00
Incidental expenses.....	150 00
Expense of Board and visitors.....	200 00
Model School Teacher.....	350 00

do do 2nd do	250 00
Prof. of Ag. Chemistry	1,500 00
	<u>\$5,500 00</u>

To meet which, the interest of the fund now available is about one thousand dollars for each year, while no organization can be made with less than an annual revenue of four thousand dollars.

For the purpose of showing what sum is deemed necessary in other States, to build and sustain a Normal School, the Board state that in Canada West the sum of sixty thousand dollars was appropriated to erect the necessary building, and annually the sum of fifteen thousand dollars to defray the expenses of the School. In the State of New York the annual appropriation is ten thousand dollars, and in Connecticut the sum of five thousand dollars, as the board are informed.

The Board cannot doubt that while so many of our sister States and the neighboring province, are doing so much to raise the standard of primary school education, by supplying a better class of teachers, through a State Normal School, our own State will promptly and cheerfully, by its present legislature, make the necessary appropriations to enable the Board of Education fully to perform the whole duty imposed upon them by the acts establishing the Normal School.

The Board therefore respectfully ask the legislature to grant to the Normal School interest fund, for the period of six years, the sum of three thousand dollars a year; and to make good the representation and the estimates of the Board, as to the amount of the endowment fund to arise from the sale of the lands first selected, and to place the institution on a permanent basis. The Board solicit the legislature to appropriate to the Normal School endowment fund, one fourth part of the proceeds of the sales of the swamp lands, after the expense of draining has been deducted from the gross sales.

The Board would also urge upon the legislature the equity of appropriating the sum of six thousand seven hundred and seventy-five dollars to the Normal School interest fund, as a reimbursement of

the Ypailanti donation, if aid shall be given for the establishment of an Agricultural School elsewhere than at the Normal School.

All which is respectfully submitted.

ISAAC E. CRARY, GIDEON O. WHITTEMORE, C. JOSLIN.	}	State Board of Education.
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January, 1853.

[No. 5.]

REPORT of the Minority of the Committee on Education, to whom was referred a bill supplementary to the Common School Law.

The minority of the committee on Education, to whom was referred a bill supplementary to the Common School Law, beg leave to report, as follows:

A suitable provision, by means of some wise and practical system, for the education of children, has in nearly if not all the States, been an admitted, and one of the first duties of the Commonwealth, from before the existence of the American Republic; and during all that time, throughout every section of the country, it has been equally admitted that the State had no right to dictate as to the religion in which the child should be instructed.

It cannot be denied that every system of instruction involves instruction in some system of religion, and therefore denominational or sectarian, or in none at all, which is infidelity.

In early days when Quakers were whipped from town to town in Massachusetts, and Catholic priests were condemned to death in New York, there might have been such an agreement in creeds, and such a likeness in religious ceremonies, that the children of all could attend the same schools, and receive the same religious instruction.

The banishment of Roger Williams from the colony of Massachusetts, while it laid the foundation of a new State, saved a literary theological controversy in the primary schools, on the question whether the word "baptize," signified an immersion in or a sprinkling with water. But this mode of untying the gordian knot, has gone into disuse, much to the relief, no doubt, of many of the highest and most virtuous citizens of the republic; yet, however, no sub-

stitute (unless it be the power of lawless violence) has been found for it.

Without in any respect entering into any questions, in either doctrine or manners, between the members of the various religious denominations; and between them all, and those who have no religion, the fact cannot be concealed that the doctrine and religious ceremonies of the many Protestant denominations, are held by the Catholic church to be utterly subversive of morals, and utterly damning to the soul. And it is equally true, that in the opinion of some Protestants, the ceremonies and faith of the Catholic church are a mere childish mummary; a common butt for ridicule; many condemn them as blasphemous; and one church at least, and that among the most influential, publicly denounces the Catholic religion, as a system of most abominable idolatry, hateful to God and damning to men. And the skeptics, neither few nor without commanding position in society, look upon all these systems of religion as mere superstition, the relics of a darker age; while they are equally abhorred by the more devout of all religious denominations.

And these differences in the faith, the ceremonies, and the opinions of the people, run through our entire system of education. Some of them are found in all our school books, from the child's primer to the most philosophical and abstruse work on geology. A few primary works on mathematics, have alone been named as exceptions. But when in its sublimer flights that science is applied to the knowledge of the Heavens, the handi-work of God, then the most abstruse of all the ramifications of that exalted science, becomes so blended with the religious faith of the most intellectual men of the age that many of them appeal to its demonstrated truths as the most unanswerable evidence of the existence and ever-presence of the Divine Architect. And the best books that have ever been written for the instruction of children in that most beautiful science, so well adapted to the capacity of the childlike mind, Botany, are so blended with religious instruction, and with those moral principles which are believed by most men to be founded in religion only, that if every vestige of religion was struck out, there would be nothing left but the blotted pages.

It is not true, as has often been said, that these fragments of reli-

gion which run through every part of our system of primary school instruction, are only such things as all religious denominations agree in. There are no such points. But if there were, it cannot be overlooked that a very large portion of our citizens have no religion, and believe in none. Yet the day is gone by, in which in this country, any sane man will pretend that the State should take these children from the control of their parents, and educate them in religion, contrary to their wishes. If such a thing were attempted, it would become a curious question which religion they should be educated in.

Yet the practical working of the present school system is, that every man must allow his children to be educated in some religious system, so far forth at least as it is contained in school books, and inculcated by the teacher, or be deprived of all benefit of the school fund raised by tax on himself. And the question what religion the young mind shall be early trained in, can be determined only by those who have the power of employing teachers, and determining what books shall be used in schools.

In those communities where the difference in religion is very small, the possession of this power is little sought after, and very seldom prostituted to sectarian purposes. But where those differences are as broad as the difference between piety and blasphemy—that between devotion and sacrilege—the mildest exercise of it can be nothing but abuse; the decision, whatever it may be, works the most abominable tyranny; and the oppression is in the law, not in the administration of it:

And it cannot be said of the existing system, that it has worked well so far, and therefore should not be departed from. That it has succeeded in communities, all of one religion, and where the differences were small, is not questioned. But it is a well known fact that among the more religious of the Roman Catholics, there has always been a great repugnance to sending their children to schools taught by Protestant teachers, and using Protestant books. Those who were able have paid their portion of the taxes levied to raise the school fund, and educated their children in schools receiving no aid from it; and the poor, if too far from charity schools, have allowed their children to grow up without the knowledge of books, rather

than have them instructed in what the parent believes to be a damning heresy.

The Catholic institution teaches that all morals, all virtue, are founded on religion. Whether these propositions be true or false, the people of that communion believe them; they have a legal right to believe them; and the constitution guaranties them the right to act upon that belief. And when we see thousands of our most intelligent, enterprising, and upright citizens, taking their children from schools supported by taxes paid by themselves, and either giving them no education, or educating them in other schools, supported by their voluntary contributions, as has occurred in this and several other States, having similar school systems, we have ocular demonstration that the system is not working well, and that there are abuses under it which must be remedied or they will rot out the system itself.

All these poor, whose children are untaught—all these wealthy, who pay taxes for schools they cannot enjoy—all these citizens, who have educated their children in schools they dare not avail themselves of any longer, and would gladly exchange all the education their children have received, for the morals they have lost, and believe the change a divine speculation, cry out to this House to interpose a remedy now, before our school system becomes what the English State church has long been—an enormous sinecure, sustained by all, nominally, open to all, but in fact a public spoliation, to fatten the estates of a few at the expense of the many.

The fact has not been overlooked, that the petitioners for the relief which this bill proposes, are nearly all of the Catholic communion. But if it should ever happen that the superintendence and control of the schools in some large city, should fall entirely into their hands, and they should, in the exercise of that control, employ teachers only of the Catholic faith, and as devoted to the precepts and practices of that religion, as some Protestant teachers, to their honor, have been to theirs; and if they should further recommend for use, and cause to be extensively used in such schools, books treating of the ministers of the Protestant religion, in such language as is common in school books concerning the Popes and Bishops of the Catholic Church, and their ceremonies and sacraments, as the Catholic cer-

emonies touching relics, images, saints, the Host and the Divine sacrifice, are frequently treated of in school books in common use; it is not impossible that petitions quite as numerous and respectable, would come up from other quarters.

In one of the counties of this State, where the schools are said to be in a flourishing condition, and conducted to the entire satisfaction of all the citizens, every school is opened Sunday, and every one is closed Saturday. And the books used in those schools, are probably as obnoxious to the Protestant religion, as the books in use in schools generally, are to the Catholic religion. No complaint is made of this, because neither books nor instructions are obnoxious to the parents, who have a right to determine the kind of education their children shall receive.

But should a settlement of Protestants be formed there, sufficiently numerous to support schools, but not to obtain the control of them, and should they petition the Legislature for such relief, that they could enjoy their share of the school fund, without sending their children to schools to corrupt their morals and destroy their religion, it is hardly possible that their prayer would not be heard.

And the petitioners for whose relief the bill under consideration was drawn, believe themselves in precisely this situation. Possibly they may be in error, as to the consequences of educating their children in the schools from which they have withdrawn them. But it is a matter of conscience with which the Legislature cannot interfere. The withdrawal of their children is with them a religious duty, the neglect of which would be, in their opinion and belief, a great sin, subjecting them to the wrath of the Almighty, and the Legislature have no right to say this opinion and belief of theirs is false.

The constitution, article 4, section 41, says: "The Legislature shall not diminish or enlarge the civil or political rights, privileges and capacities of any person, on account of his opinion or belief concerning matters of religion." To offer the petitioners their common enjoyment of this, one of their civil rights, only on conditions so utterly abhorrent to every sense of religious duty, is worse than to deny it altogether.

In sparsely populated sections of the State, there may be some difficulty in granting the relief prayed for. Those difficulties, however,

cannot be greater than the difficulty always experienced in starting schools in a new country. But in towns and cities, and densely populated country places, it is quite as easy to support one school for all the children of Catholics, and another for all the children of Protestants, as two schools in which they shall be mixed together, and teach each other to despise the precepts and instruction of their parents, and the ministers of religion. Such schools would be no more sectarian than are the existing schools taught by the same teachers, and they could not become proselyting seminaries.

The undersigned, therefore, a minority of the committee on education, to whom was referred the bill supplementary to the Common School Law, recommends that said bill do pass.

J. O'CALLAGHAN.

[No. 6.]

REPORT of the Majority of the Committee on Education, to whom was referred a bill supplementary to the Common School Laws.

The committee on Education, to whom was referred a bill supplementary to the Common School Laws, have had the same under consideration, and a majority of said committee have instructed me to submit the following report :

It appears from the report of the Superintendent of Public Instruction, (upon whose knowledge and sound judgement your committee repose great reliance,) that our present school system has been for the past sixteen years, and is now in successful operation, and needs scarcely any changes to make it equal to the hopes and plans of its founders.

That it extends to all equal privileges, and is open to all alike, making no distinction between the children of the rich or the poor, the alien or the citizen. All may enter its doors without question or hindrance, and drink with equal freedom of the fountain of knowledge.

That the amount raised by taxation for primary school purposes, is nearly sufficient to meet the requirements of the constitution, affording free tuition for three months, in every school district in the State. The increase of the school tax under the tax law just passed this House, will, as your committee believe, be quite sufficient for the establishment of free schools, as required by the constitution.

The bill under consideration proposes to divert from the primary school fund, an equal amount in every school district, to any person having the requisite qualifications, who shall teach therein for three months, any school wherein is taught the English languages, whether private, select or academical, placing all schools in regard to the primary school fund, upon an equal footing with primary schools. How

far such a law would infringe upon and affect the whole system, may be readily judged.

Without entering into the merits of this proposed law, a majority of your committee are of opinion that any change or innovation upon the present system of schools and taxation now provided for their support, ought not to be demanded by the friends of education of any sect or denomination. That such a change would interrupt the prosperity and progress of primary schools throughout the State, and would introduce confusion and discord in place of harmony and peace, and materially affect the interests of the rising generation.

Granting that the bill under consideration, not only has the air of plausibility, but considered by itself in the abstract, it has its merits, its passage would require an immediate and entire change of all our school laws, both in the principle of the system, and in the detail of the laws. It proposes a radical change in the superstructure as well as in the foundation of the system of public instruction. Such a change founded upon claims, however well sustained, should not and cannot be the work of a few days, or even of months. We are of opinion that the people of the State are not prepared, and do not demand of the Legislature, any legislation on this subject, which would so seriously affect the condition and welfare of the great mass of their children.

Your committee therefore report the bill back and ask to be discharged from its further consideration.

W. T. MITCHELL,

Chairman.

[No. 7.]

REPORT of the Committee to whom was referred the memorial of
S. D. Newbro and thirty-one others, concerning Phonetics.

The word "phonetics" is, in its narrowest sense, understood to apply to the principles upon which the two systems of representing language known as Phonography and Phonotypy, are based ; but in its more general use it designates not only the principles but the systems themselves. PHONOTYPY, a word compounded from two Greek words, *phone*, "voice sound," and *typos*, a "character" or "type," is used to designate a system of representing language by printing, there being just as many characters or types used as there are separate and distinct sounds in our language. PHONOGRAPHY, a word compounded of the Greek words *phone*, "voice-sound," and *grapho* "writing," is used to designate a system of writing based upon the same principles as phonotypy. These are two general principles upon which both systems are based.

THE FIRST PRINCIPLE is : In a true system of language-representation, there should be just as many characters as there are separate sounds in speech.

THE SECOND PRINCIPLE is : Each sign should represent but one sound and no more ; and each sound should be represented by one sign and no more.

It is evident then, that in reading Phonotypy, that all that is required to be done is to learn to recognize each one of the signs used to represent the forty-two sounds of our language, and give them their names, (which are the same as the sounds they represent,) in the order in which they stand upon the page.

In devising characters to be used in phonotypy, all has been done that could be to make it correspond in appearance as nearly as possible to the common type, so that the transition from one to the other

can be readily made ; and it is found that persons who read the common print with readiness, in from fifteen to twenty minutes read the phonotypic printing. The letters in our present alphabet have been used to represent those sounds for which they most usually stand in our common print, and new characters invented for the remaining sounds.

Your committee are of the opinion, if this system of representing language were adopted, that nine-tenths of the time now devoted to learning to read *merely*, might be devoted to the acquirement of useful knowledge ; and against its general adoption we can see no rational objection ; but, on the other hand, a great many strong reasons for its being brought into use, even to the entire superseding of our present system.

We are confirmed in this position from the fact, that if any objections can be brought against phonotypy, they are only those of a most frivolous character ; while it may be truly said that our present system of representing language is characterized throughout, by the grossest absurdities, its very rules being exceptions. Sheridan has said : "Such indeed is the state of our written language, that the darkest hieroglyphics, or the most difficult cyphers ever invented by the art of man, were not better calculated to conceal the sentiments of those who use them, from all who do not have the key, than the state of our spelling is to conceal the true pronunciation of our words from all except a few well educated individuals." Although his remark cannot be fully endorsed, yet there is more truth in them than most persons would imagine, who had not devoted particular attention to the subject. We cannot take the space to speak fully upon the subject, but will say in brief, that after a careful examination, it has been ascertained that there are six hundred and fifty-eight different ways of representing the forty-two sounds of our language, making an average of sixteen different methods of representation for each sound ; hence, some words could be spelled in several thousand different ways, and each spelling be justified by the spelling employed in some other words of the language. The spelling of the words, *seraglio*, *laughter*, *signed*, *schism*, *forfeit*, *harangue*, would justify us in spelling *Lansing*, a word composed of six sounds, in the following manner : *Gl-augh-gne-sch-li-ngne*.

Whether or not our common orthography can be justly charged with all these anomalies and inconsistencies, it is evident, that to acquire the capability of reading it readily, requires a great deal of time, and that if any method can be devised, tending materially to the expediting the attainment of the knowledge of the present orthography, it should by all means be adopted. It is claimed that children can be taught to read our common type, in about one-fourth the time usually required, provided they are first learned to read phonotype. The system has been adopted in over one hundred and sixty schools in the State of Massachusetts, and this has not been done by way of experiment. A phonetic school was established for the purpose of testing the utility of the system in aiding children in acquiring a knowledge of our common print; and from the decisive evidences in favor of phonotypy, it has been adopted in these one hundred and sixty schools. It was introduced into the State Normal School of Massachusetts, as early as early as 1845, and after having there produced the results anticipated for it by its warmest friends, was introduced into the State Normal School of New York, at Albany. It is also taught in the Albany Female Academy; and it has been being introduced into colleges, academies and schools, until now by the latest accounts, it appears that it, with phonography, has been introduced into over 200 schools and colleges in England, and 500 in the United States. The subject has been presented to the American Academy of Arts and Sciences, a very learned body of men, and they have made a report as favorable as could be wished. The matter was presented to the Massachusetts Legislature, in 1851, and the joint committee of education of that body, to whom it was referred, made an exceedingly favorable report, and recommended its adoption in schools. In 1852 the subject was again brought before that Legislature, and the Senate immediately reported the following resolution:

"Resolved, That the phonetic system of teaching the reading and spelling of the common orthography is worthy the attention of those who have charge of common school instruction, and that town or district school committees who may see fit to test it, are requested to furnish such reports concerning it, in their returns to the secretary of the Board of Education, as they may deem best."

The House non-concurred in the resolution, by a majority of five. The committee who reported the resolution expressed it as their most decided convictions that the system should be introduced into *all* the primary schools. The Principal of the Wellville Union School, David Parsons, Esq., brother of our worthy Lieutenant Governor, says: "Both phonotypy and phonography are taught in this school, and ever will be. The scholars who have learned phonotypy, and who are still learning it, are a-b-c scholars. They learn to read easy sentences in from two to three weeks, and will read anything in three months. In our primary department, we don't pretend to teach a-b-c scholars the old way of spelling and reading, except by the new first. If I was compelled to teach the old way of spelling and reading, *I would teach the new way first*, by which means I should be, as well as my pupils, the gainer by *two-thirds of my time*." The phonetic system has been recommended by a considerable number of Teacher's Institutes, a fact that should be evidence that it is not the scheme of a set of enthusiasts. In this connection we desire to give some fuller explanation of the phonetic system of teaching the spelling and reading of our common orthography. In accordance with this system, the pupil is first taught to read phonotypy, and it is shown that the pupil will learn to read readily anything printed in the phonetic way, in about one-tenth of the time ordinarily employed to learn to read our common type. After the pupil has learned to read phonotypy fluently, he is given what is called a "transition reader," by which is understood a book in which words are arranged in columns, words printed phonotypically, being arranged side of those in the common type, so that the pupil can readily see the method by which the given words are represented in the common orthography; and then follows a reading lesson composed of the words in the columns above. This "reader" is used until the pupil can readily read our common orthography; and it has been proved, again and again, that to teach the pupil to read our common print by this mode of teaching, only requires about one-fourth of the time usually employed. It is the opinion of the committee, that if this system of teaching were adopted in our primary schools, it would have the tendency to materially improve them and extend their range, saving three-fourths of the time now absolutely lost in learning to spell and read, for the pursuit of higher branches of study.

Before closing the report, the committee desire to say a few things concerning phonography; and of this there are the two kinds, the long-hand and the short-hand; to the last of which, we shall confine our remarks. Phonography is the invention of Mr. Isaac Pitman, of Bath, England. He published his first text-book of it in 1837; therefore it has been before the world for sixteen years. It has been being perfected in accordance with the suggestions of the experience of thousands of phonographers, until now it stands as the *ne plus ultra* in the art of writing. Most systems of this kind have been invented by persons so jealous of their works that they have not allowed the perfecting hand of others to touch them; but Pitman, desiring that the world should be furnished with a system of writing that had long been a desideratum, put forth his system, based upon the true principles, and invited criticism and emendation. When the vast benefits of such a system of writing are considered, the name of Pitman must at least stand equal in glory with those of Arkwright, Galileo, Franklin, Fulton, and Morse.

The system is so extremely philosophical and simple, that but from six to ten hours time are required for the acquirement of its principles. Practice for an hour per day for one year, enables persons of ordinary capacity to write it at the rate of from one hundred to one hundred and eighty words per minute. It has been written by persons who have had a great deal of practice, at the rate of two hundred and fifty words per minute. Their rapidity could be tested only by reading, as persons speaking extemporaneously never speak faster than two hundred words per minute.

Our present system of writing requires the hand to make seven strokes where the voice makes only one effort; but phonographic writing is based upon the principle that no sign representing a sound made by one effort of the voice, shall require more than one stroke of the hand; therefore, it can be written seven times as fast as the common hand. By the use of it, a person can do as much writing in one hour as he could otherwise do in six. When the Hon. Thomas Benton was presented with a verbatim report of a speech of his, taken by a little boy, he said: "had I been able to avail myself of the advantages of this system from forty years ago, I should have saved twenty hard year's labor."

The committee are of the opinion that if it were introduced as a branch of study in our primary schools, that every pupil might, by the time he had been under an ordinary amount of tuition, be able to take down speeches, verbatim.

We find frequently a wrong impression has been produced as to the progress of this system. We have to say that it is still progressing, and never fails to find friends where it finds acquaintances. It has received the warm and hearty approbation of men of large attainments, and high in the confidence of the public; such men as George B. Emerson, Esq., Dr. John C. Warren, Francis Bowen, Esq., Editor of the North American Review, Cambridge; Judge Phillips, Cambridge; Dr. Oliver Wendell Holmes, Boston; all members of the American Academy of Arts and Sciences, the oldest scientific body in the United States. It has received the approbation of such men as the Hon. Horace Mann, the world-renowned friend of education; such men as Edward N. Kirk, the Hon. Amasa Walker, and the Hon. Charles Sumner.

Phonography is used in the correspondence of thousands in America, and England; and it has been estimated that over 5,000,000 phonographic letters pass annually through the English and American post offices.

As a system of reporting, it is fast superseding all others; and on account of its perfect legibility, is adopted at times by persons who have used other systems for years, most of the systems of shorthand being unreliable.

The exceeding faithful and accurate reports of the debates of this House, which are made by our official reporter, Andrew J. Graham, Esq., not only afford abundant evidence of the superior qualifications of that gentleman for the profession which he has adopted, but an excellent compliment to Phonography, which he uses in making his notes, as an unrivalled system of short hand.

Professor Upham says: "Phonography and phantotypy are pregnant with blessings to the millions. How does every new achievement afford new proof that the sleep of ages is over for ever, and that the race is rising like a refreshed giant to universal reform."

The committee, in view of the evidences in favor of Phonotypy and Phonography, but a tithe of which they have been able to present, are of the opinion that its introduction into our primary schools would be of vast benefit to the educational interests of the State.

NELSON GREEN,
WILLIAM H. GREGORY,
HIRAM N. LATHROP.

[No. 8.]

REPORT of the special committee to whom was referred the petition of William H. Clark, and one hundred and thirty other citizens of Lapeer county, asking an investigation of the acts and doings of A. N. Hart, the special commissioner, appointed under act 285, of the session laws of 1848, relating to the expenditure of the twenty thousand acres of land appropriated by said act.

That an act to provide for the construction and improvement of the northern wagon road from Port Huron, in the county of St. Clair, through the counties of Lapeer and Genesee, to Corunna in the county of Shiawassee, approved April 3, 1848, appropriated twenty thousand acres of land, valued at \$25,000, upon and for the improvement of the said northern wagon road; and Alvin N. Hart, of Lapeer, was appointed a special commissioner under said act to expend said appropriation.

The road upon which this liberal appropriation was made, absolutely required the fostering care of the State. It was located along the line of the northern railroad, to aid which, and develope the counties along its route, the faith of the State was honestly pledged. The people of Lapeer most especially, which had been settled with the expectation of the building of the Northern Rail Road, were deprived for years of the means of ingress and egress, and they looked forward to this appropriation with confidence and hope that its judicious expenditure would open for them a thoroughfare at all times passable, and an outlet for their trade and business. These hopes have been disappointed. The appropriation has been in a measure squandered, and a liberal donation, capable of doing so much good, and conferring so many important blessings upon the north was mostly used for private purposes, and personal advantages.

Your committee have felt the full force of the complaints of your petitioners, and have, in examining the facts in this case, and the

law bearing upon the subject, learned with surprise, that so few legal restraints have been interposed to prevent the fraudulent peculation of commissioners and the corrupt misapplication of appropriations.

In this case, although the appropriation was \$25,000, a bond in the penal sum of only \$5,000 was exacted of the commissioner, and subject alone to this guard, the commissioner had full control of this generous gift, so certain of producing important benefits and advantages, if faithfully devoted to the object of the donation.

Joint Resolution No. 19, approved March 6, 1849, intended and designed to be a check and restraint upon the conduct and acts of all special commissioners, by requiring from their reports, who neither in its spirit or letter complied with in this case. By that Joint Resolution, it was made the duty of all such special commissioners to make "a full and complete statement of his or their duty, as such commissioner or board, stating particularly the kind of labor contracted for, the name of each contractor, the number of rods, acres, or miles let to each, with the contract price per rod, acre, or mile, for each kind of work contracted for, the names of contractors who have complied with the condition of their contracts, the names of those contractors whose jobs have been completed, the condition of the public works under contract and not completed, &c."

In pursuance of said resolution, as your committee supposed, a report was made to the Secretary of State, without date, and without stating the full particulars required by said resolution, and showing that said commissioner had, at that time, only contracted to expend \$3,984.66. This document is the only one found by your committee, relating to the manner or kind of expenditure upon said road.

Your committee find that nearly all of said appropriation has been expended; that it appears from the books in the office of the Auditor General, that \$34,984 of the appropriation has been drawn upon the order of said commissioner, leaving undrawn of said appropriation, but the sum of \$16, as will appear by the statement copied from the books in the auditor's office, hereto attached, and that there are no reports on file by which your committee can determine, to their satisfaction, for what contracts, or jobs, or for what purposes, this said appropriation was expended.

That after entering upon this investigation, your committee had the

conference with Mr. Hart, said commissioner, in relation to said matter—that upon being required to make a statement of the matter, and lay the facts before your committee, he informed them that the necessary papers and documents to enable him do so were not then in his possession, but that he would go home, and immediately forward such statement to your committee. More than two weeks has elapsed since said commissioner made such promises and assurance to your committee, and yet they have received no statement, explanation or report of any kind from him.

Your committee have caused an examination of the books and records in the office of the commissioner of the State Land Office to be made, and from such examination, it appears that the lands located by said Hart under said appropriation are now valuable lands, and were at no time worth less than ten shillings per acre. They were located in the counties of Lapeer, Saginaw, and Tuscola, and would enable the commissioner to realize the full amount of the appropriation.

From the facts as they appear to your committee, and the best information that they can obtain, your committee have been led to the belief that a part of said appropriation has been grossly misappropriated and misapplied; that not more than one half of said appropriation has been actually expended or applied in any manner to the construction and improvement of said road, and that the balance of such appropriation yet remains unexpended, or used for private purposes.

By a joint resolution relative to certain appropriations of internal improvement lands approved April 2, 1849, it was made the duty of said commissioner, under said resolution, to expend one thousand acres of said appropriation upon the road leading from Lapeer to the Oakland county line, provided the inhabitants along the line of said road should by voluntary contribution expend under the direction of said commissioner at least one thousand dollars for the same object. The labor was so expended by said inhabitants to the satisfaction of said commissioner, as appears by affidavits in the possession of your committee; yet not a dollar was expended by said commissioner on said road, although your committee have reason to believe that the appropriation therefor has been drawn by said commissioner.

This investigation clearly manifests to your committee, a gross negligence of duty on the part of said commissioner, that his failure under the circumstances to make a statement of the amount, and manner of expending the appropriation, and the universal complaint along the entire line of said road, all tend to convince your committee that the appropriation has been misapplied, or wantonly squandered. Certain it is that it has been of no practical benefit.

The strict accountability, the honesty and integrity of those intrusted to make public expenditures, cannot be too strictly guarded, and any attempt to shrink from examination and investigation cannot be too fully exposed. Your committee, therefore, in view of the facts above elicited, recommend the passage of the accompanying joint resolution.

H. N. LATHROP, *Ch'n select Com.*

Appropriation, Act No. 285, 1848.

Certificate—in whose favor drawn.	Date.	Amount.
W. L. Bancroft,.....	April 2, 1849.	\$50 00
Hazleton & Abbott,.....	Aug. 14, 1849.	500 00
A. S. Hatch,.....	Sept. 10, 1849.	875 00
A. Sanford,.....	Sept. 15, 1849.	3,125 00
Geo. H. Hazleton,.....	Sept. 29, 1849.	500 00
".....	Dec. 21, 1849.	2,550 00
Henry Hunt,.....	Dec. 13, 1849.	31 00
Cha's H. Abbott,.....	Dec. 21, 1849.	2,550 00
M. H. Clark,.....	Dec. 13, 1849.	33 00
Jas. E. Brown,.....	Dec. 20, 1849.	400 00
Theo. Bathey,.....	Mar. 28, 1850.	1,055 00
".....	April 17, 1850.	2,000 00
A. S. Hatch,.....	July 1, 1850.	1,250 00
Theo. Bathey,.....	July 32, 1850.	2,000 00
".....	Aug. 22, 1850.	400 00
Cha's H. Abbot,.....	Sept. 14, 1850.	79 25
G. H. Hazleton,.....	Oct. 25, 1850.	33 45
James Seymour,.....	Oct. 15, 1850.	239 00
E. Fletcher,.....	Oct. 25, 1850.	100 00
G. H. Hazleton,.....	"	20 00

Lewis S. Tyler,	Dec. 6, 1850.	24 00
S. P. Steadman,	Oct. 25, 1850.	210 16
T. Bathey,	May 7, 1851.	1,000 00
"	May 14, 1851.	400 00
A. N. Hart,	June 16, 1851.	74 00
A. S. Hatch,	June 27, 1851.	3,000 00
E. C. Kimberly,	April 30, 1851.	1,500 00
C. H. Abbot,	Aug. 19, 1851.	725 16
Calvin Morse,	Oct. 25, 1850.	50 00
Aaron Decker,	"	71 87
James Beard,	"	121 52

Amount appropriated under act No. 285, 1848, and amended under act No. 140, 1849,	\$25,000 00
Am't expended on Northern Wagon Road, ..	\$24,359 00
Am't expended on Flint and Lansing road, ..	625 00
	<hr/> 24,984 00
Leaving unexpended under the appropriation,	\$16 00

[No. 9.]

MEMORIAL of William T. Howell and 178 citizens of the County of Hillsdale, asking certain amendments to the charters of the Southern and Central Rail Roads; and protesting against any increase of their privileges until such amendments be made; or that said roads be re-purchased by the State.

To the Legislature of the State of Michigan :

Your petitioners, inhabitants of the County of Hillsdale, respectfully represent, that they, in common with the other inhabitants of the State, are favorably disposed towards channels of communication by means of Rail Roads, with proper guards and restrictions as to their powers. They are aware that applications will be made by the Central and Southern Rail Roads for amendments to their charters, authorizing the extension of their roads, under their present charters, from Detroit to Monroe or the southern line of the State.

Your petitioners are in favor of authorizing the Southern Rail Road Company so to extend their road, upon the express condition that in the same law further amendments be made, such as the exigency of the times seems to require.

Both the Central and Southern Roads possess large and unusual powers, which seems to require restriction or modification, and unless such restrictions can be imposed, your petitioners are wholly opposed to granting any amendments, or extending any legislative favors to either of said companies.

Among the more prominent objectionable features in the charters of those companies, and which require modification, we may mention, *first*: Their power measurably to fix their own rates for the transportation of produce, merchandize, and passengers.

Their present rates are unreasonably high and oppressive to the

lesser interests of individuals, and consequently detrimental to the public and all not immediately interested in their profits.

Their tariff for freight and passengers are from thirty to forty per cent higher than eastern roads under legislative control, while their cost of construction is not more than one-third as much as those roads, thus giving them exorbitant profits, besides enriching the corporators by the enhanced value of their stock.

The question is here presented, who pays these profits? It admits of but one answer, and that is, the people of this State, and those who do business on these roads pay nearly three times the usual interest on money on a capital of about twelve millions of dollars owned by these companies.

They charge a higher rate for way passengers and freight, than over the entire length of their road, and many are obliged to pay more for the freight of a barrel of flour for one hundred, than for one hundred and fifty miles; thus, while the system lacks uniformity, it introduces a system of gambling speculation, having no higher object than preying upon the necessities of the public, in order to gratify a consuming rapacity, over which neither the legislature or the people have any control.

Your petitioners also insist that the attempt to grant the *exclusive right* of way over any portion of territory not necessary for the exercise of their corporate rights, is an absolute infringement upon the original, inherent rights of the people. That the division of the powers of government into executive, legislative, and judicial, cannot suppose that no rights are reserved to the people themselves. That if they possess the right to settle a territory and form a government, the right of easement over that territory is an attribute not delegated, but reserved, and neither the legislature, or any other, or all departments of government combined, have the right to transfer, delegate, or abridge such attribute, and we respectfully insist that such right or pretended right be yielded before any further powers be added to either of those companies.

Entertaining these views, your petitioners insist, that unless said companies will consent to some modification upon the subjects here mentioned, that no amendments be made to their charters—that if there remains any territory free from the *iron grasp* of such monop-

olies, let it so remain—that instead of increasing their power, we respectfully suggest that such incipient measures be taken as you shall deem advisable to re-purchase the Central and Southern roads, under the provisions contained in their charters for that purpose, and not allow them to proceed step by step, until the powers of the legislature and the people shall become impotent in that regard.

Hillsdale County, January, 1853.

W. T. Howell,
Charles Gregory,
Wm. Dickinson,
Wm. H. Tuller,
Eutychus Champlin,
A. P. Hogarth,
Jonah G. Tyler,
Oliver C. Pope,
Adna H. Smith,
S. S. Baker,
E. S. Curtis,
Jesse Buttoh,
Jno. T. Blois,
Ch's Dunham,
A. D. Ackles,
M. Duvinall,
Abraham Forman,
J. G. Gridley,
W. Buel,
Norman S. Sharp,
J. H. Parsons,
Charles C. Welch,
Loren Staples,
David Cowen,
U. B. Couch,
S. Lendrus,
P. Donoughue,
Anson Cook,
Joseph Green,
George Peteriker,

S. R. Smith,
James Forman,
C. J. Van Ness,
L. Smith,
Ezra Smith,
Samuel Woods,
Harlow H. Stanton,
A. W. Baldwin,
James Allen,
G. W. Satterlee,
Wm. Price,
H. W. Luce,
E. J. Olds,
Isaac Coleman,
John Patton,
H. H. Sherman,
Benjamin Sherman,
John C. Coryell,
Nelson Coryell,
Benjamin Kelley,
Anthony Ingham,
John Manross,
Henry Montgomery,
R. B. Coleman,
Thomas Price,
Samuel Coleman,
Jacob Havens, Jr.,
A. J. Baker,
R. Nimocks,
H. Huff,

L. S. Wilson,
Peter M. Goryond,
Joseph Hoch,
John Bennerle,
John Bunting,
Andrew Mark,
M. A. Funk,
Poince Benedict,
Benajah Stone,
George L. Fisk,
Wm. H. Tuller,
Leonard Coplin,
Madison Trest,
John H. Willard,
Samuel Standish,
I. G. Martin,
D. Kesselring,
S. W. Johnson,
J. H. Armstrong,
L. D. Smith,
John Wade,
James Willson,
Lowery Willson,
O. C. Gale,
Harrison Gale,
James Murray,
K. Baker,
V. V. B. Merwin,
Walter Huntington,
Benjamin Bradley,
Wm. Harris,
W. Knight,
John R. Boulton,
W. C. Bowen,
C. W. Ladd,
J. D. Van Duyn,
F. H. Pratt,

James Humeston,
George Knapp,
Conant Sharper,
Frederick Dingfelts,
Andrew Marsh,
C. Rims,
Henry Weatherwax,
E. Martin,
Peter Van Fleet,
Robert Shipman,
Charles W. Johnson,
Daniel Shall,
D. W. Scovell,
J. Davenport,
Henry Montgomery,
Richard Brain,
R. D. Waterman,
Samuel Woods,
John Wellington,
Townsend Bigelow,
Thomas M. Fowler,
Elanzo Spatch,
Wm. McCarthy,
John Gill,
A. D. Wells,
A. Thompson,
John W. Donovan,
D. A. Knight,
I. A. Bigelow,
H. Gale,
Spencer Torrey,
K. Gale,
J. C. Squier,
J. W. Knight,
David Fisher,
George Thomas,
Ransom Hulin,

Denis Cheney,
 Sam. Nicholson,
 I. W. Buchanan,
 Jas. O Bibbins,
 Alonzo Kies,
 L. G. Miner,
 Milo D. Hawley,
 John Young,
 Calvin Griswold,
 Chas. Griswold,
 David Cheney,
 Hiram Colton,
 Oschar Rowley,
 M. L. Griswold,
 David M. Bagley,
 G. C. Gill,
 John Askew,
 Jacob Hicks,
 John Miller,
 Joseph Eaton,
 Geo. Gray,
 Wm. H. Shipman,
 Chas. Shall.

S. C. Merwin,
 Stephen Petter,
 Leonard Miller,
 Samuel Wheaton,
 H. N. Rowley.
 Orlando Chas. Gale,
 C. Hollingsworth,
 D. A. Foster,
 S. P. Simons,
 Joel Moore,
 I. H. Miller,
 Joseph McKercher,
 Samuel R. Finch,
 James L. Taylor,
 J. B. Flower,
 John C. McKercher,
 Robert Murdock,
 Abraham Ramsdell,
 Thomas J. White,
 B. F. Taylor,
 Wm. Gray,
 John Shall,

[No. 10.]

MEMORIAL of the Chippeways of Saginaw in favor of the Maine Law.

To the Senate and House of Representatives at Lansing, Michigan:

Your petitioners, (not legal voters) of the Townships of Elroy and Taymouth, in the Counties of Lapeer and Saginaw, in the State of Michigan, respectfully, but earnestly, request your Honorable bodies to enact a law, prohibiting the manufacture of all Intoxicating Beverages, and the traffic therein, like the one now in operation in the State of Maine.

DEAR FATHERS AND BROTHERS :

We understand that you are at the great Council House at Lansing, and that the great Council Fire is now burning, and that our white brothers all over the State are sending wood to put on the council fire, but we 'fraid the council fire will not burn bright and clear without more help, so we send this to make it burn.

Now, Brothers! what we want to say, is this: we hear about our brothers in the State of Maine—we hear that they find *Great Rogue*—this rogue—he gets folks' money—sometimes he burns houses; sometime he kill peoples; sometime he make a family very poor; sometime he take away senses; sometime he make 'em vory cross, and ragged, and dirty, and sometime he freeze 'em to death. Now we hear our brothers there—they try to stop it—they try talk about it—see if can stop it little—but he wont stop it. We hear at last our brothers wont bear it no longer, so they make *law* to knock him on head any where they find 'him, in barrel, or jug, or bottle; in tavern, or grocery, or barn; any where knock him on head. Now we want to tell you, brothers, that this big rogue has been here, and all over this Saginaw country; has been among all our people; has

made us a great deal of trouble. Some of our people would be very good if this bad fellow would keep away. We try—our people try some too, but he will not. Now what we want, and what we ask you to do, is to make laws, such as our brothers in the State of Maine have made. We have tried to coax him, but he wont be coax; we try to scare him—he wont be scare much, he still make great deal trouble: we think better make law to knock him on head—then he make us no more trouble. We Christian party ask it, and some Pagan too—most all ask it—you make this law.

Now, Brothers, our people sold our land to white people, and white people make treaty—he say he be good to Indian. But he let this *rogue* trouble us most too long. Now, brothers, we was one great people, and we have gone to war for our white brothers; but now we are few, and our white brothers are strong. We want you help us—we want you to make this law, so when we find him—this *rogue*, we will keep him. We see him great many times, but we mean to be good and peaceable, and so he get away; but if you make this law, then we kill him, and then we live happy and friendly—no more cross—no more ragged—no more fight—but raise corn, wheat, oats, beans, cattle, horses, and some children too! no more get drunk, no more freeze to death—work and get good things like white men.

Chief PEMKOUNZ,

Chief SANGANJEW,

Chief WANJEGEZHIZ,

Chief AHQUEZANSE,

Chief GANGAGEZHIG,

Chief OGEMOUS,

Chief PASHENEWE,

and 404 others.

LEGISLATURE, }
1853. }

{ HOUSE DOC.
No. 11. }

[No. 11.]

COMMUNICATION from the Secretary of State transmitting Abstract of the Reports of the Superintendents of the Poor for the several Counties in the State of Michigan, for the year 1852.

OFFICE OF THE SECRETARY OF STATE, }
Lansing, January 11, 1853. }

HON. DANIEL G. QUACKENBOSCH,

Speaker of the House of Representatives :

SIR—I have the honor to transmit herewith to the Legislature, an abstract of the reports of the Superintendents of the Poor, for the several counties in the State of Michigan, for the year 1852, as received at this office.

I am sir, very respectfully,

Your obedient servant,

WILLIAM GRAVES,
Secretary of State.

**ABSTRACT of the Reports of the Superintendents of the Poor for
the several Counties in the State of Michigan, for the year 1852.**

COUNTIES.	Number of persons relieved or supported during the year.	Whole expense of such support.	Am't paid for transportation of poor.	Amount paid for other items which do not constitute any part of the actual expense of maintaining the poor.	Amount paid to Superintendents of Poor.	Amount paid to Directors of Poor.	Amount paid to Justices of the Peace.	Amount paid to Keepers and Officers.	Actual value of the labor of the poor maintained.	Estimated amount saved in the expense of their support by their labor.
Allegan....	22	\$575 00	.....	.....	\$32 35	.....	.....	.....	.....	.....
Barry.....	14	233 00	.....	47 45	.....	.....	.....	.....	.....	.....
Berrien....	64	700 00	36 00	807 00	26 50	.....	.....	300 00	44 00	44 00
Branch.....	68	1,376 34	8 00	.....	63 64	17 00	4 50	.....	.....	.....
Calhoun....	131	2,738 61	24 75	839 81	178 16	16 88	.....	400 00	50 00	50 00
Cass.....	27	984 51	22 30	.....	.....	3 75	1 00	200 00	.....	.....
Chippewa*	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clinton....	21	451 98	.....	.....	62 25	11 00	5 00	.....	.....	.....
Eaton.....	1	29 50	.....	10 00	14 25	.....	.....	.....	.....	.....
Genesee....	22	722 78	.....	.....	40 00	.....	1 30	.....	.....	.....
Hillsdale..	34	1,011 77	20 00	100 00	75 00	.....	.....	240 00	.....	.....
Houghton*	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ingham....	16	1,005 36	7 50	200 00	95 36	15 25	3 50	184 00	.....	.....
Ionis.....	19	527 01	16 00	.....	44 06	7 50	.....	.....	.....	.....
Jackson....	50	1,452 51	25 00	75 00	150 00	50 00	5 00	646 52	.....	.....
Kalamazoo	27	1,185 68	.....	119 00	55 70	13 50	.....	207 00	.....	75 00
Kent*.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lapeer....	25	439 66	.....	.....	47 00	.....	3 75	35 38	.....	.....
Lenawee... 46	1,403 00	60 00	55 00	.....	78 00	39 50	21 75	325 00	20 00	.....
Livingston. 30	869 14	16 00	.....	.....	57 00	10 50	6 00	694 00	.....	.....
Mackinac* 57	947 75	17 00	114 35	93 28	80 86	13 91	347 57	.....	.....	.....
Macomb.... 83	1,214 66	13 50	114 91	70 50	50 33	2 00	331 25	50 00	.....	.....
Monroe.... 44	820 34	33 73	87 26	73 74	111 01	49 60	300 00	.....	.....	.....
Montcalm* 9	531 10	2 10	52 52	34 72	4 50	3 00	.....	.....	.....	.....
Oakland....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ottawa*....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Saginaw*... 9	531 10	2 10	52 52	34 72	4 50	3 00	.....	.....	.....	.....
Shiawassee	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
St. Clair*..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
St. Joseph*	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sanilac*... 26	381 39	.....	19 81	25 52	2 00	1 00	.....	.....	.....	.....
Tuscola*... 188	2,607 93	73 22	5 33	151 41	79 56	19 00	602 00	252 00	.....	.....
Van Buren.. 325	1,715 81	125 24	683 10	182 00	123 50	53 25	434 36	130 00	130 00	.....
Washtenaw	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Wayne....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total....	1339	\$23,964 83	500 34	3330 58	1,673 41	636 64	193 76	5,307 08	546 00	\$299 00

*No returns.

